

DISUNION IN THE RANKS:  
SOLDIERS, CITIZENSHIP, AND MUTINY IN THE UNION ARMY

A Dissertation

by

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Submitted to the Office of Graduate and Professional Studies of  
Texas A&M University  
in partial fulfillment of the requirements for the degree of

DOCTOR OF PHILOSOPHY

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May 2015

Major Subject: History

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## ABSTRACT

This dissertation is the first scholarly study to comparatively analyze the mutinies of Anglo, immigrant and African American soldiers in the Union Army. Those collective and individual military protest actions were part of the war's capacity, in the words of historian David Blight, to "unleash, reinforce, and reshape nineteenth century values and attitudes." I contend that mutinies reveal Civil War volunteers who possessed a conception of soldier rights derived from membership in free associations and the citizenry's long history of local control. While republicanism and the market contributed a language and ethos, it was native-born Anglo soldiers' real practice of self-government in peacetime that led them to demand its continuation in the interstices of military law during wartime. At the same time, though hardly acknowledged by Anglos, northern free blacks took part in the associational and print culture of their day and conceived of themselves as active citizens. Their military protest actions continued their practice of self-government even as it risked being labeled as disloyalty. European immigrants who volunteered to prove their allegiance to the republic could resort to mutiny if they detected a violation of their soldier rights. Yet, these moments actually served to prove the very fitness for citizenship originally questioned by nativist opponents before the war. Most surprisingly, the mutinies by emancipated Southern blacks drew on their culture of confrontation and resistance during bondage to assert their new rights under the rule of law as soldiers of the United States. When they protested unequal treatment while in uniform they took their first steps in using the war to achieve political and civil equality in American society. My project analyzes the proceedings of general courts-

martial as well as relevant manuscript collections, regimental histories, and newspapers to construct a web of popular constitutional citizen action both at home and in the military against perceived violations of Americans' right to rule themselves in association with one another. Regardless of ethnic origin, citizen-soldiers' mutinies are a window on their campgrounds and drill fields as another theater of the war where they debated its grand questions of loyalty, self-government, Union, and freedom.

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## CHAPTER I

### INTRODUCTION

Young Philadelphian William Colton quickly “decided” in the summer of 1862 that volunteering for the Union Army was his “duty.” Colton initially accepted non-commissioned rank in the 121<sup>st</sup> Pennsylvania Volunteer Infantry Regiment. The colonel soon cautioned that it was as yet “not accepted as part of the quota from Philadelphia” for the impending 1862 enrollment. Colton considered noxious the idea of serving alongside the draftees who might be necessary to bring the regiment to full strength.<sup>1</sup> Just as loathsome, he and his friends might be “consolidated with other regiments.” Any of these meant “the possibility of being *sent by U. S. to some other Regiment.*” They “refused to be sworn in” for national service, therefore, and ended their association with the 121<sup>st</sup> Pennsylvania. Organizing their own company failed to attract the notice of recruits. Finally, they gained entry into an elite cavalry formation known colloquially as the Anderson Cavalry. The boys “were ‘sworn in’ by Alderman McCohen,” happy that their new colonel was “very particular” and accepted “only respectable young men, on recommendation [*sic*].” At the time, Colton had the “firm conviction that it was the best thing I could do.”<sup>2</sup>

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<sup>1</sup> Pennsylvania was charged by the national government with contributing to the 2 July 1862 call of 300,000 additional soldiers. By meeting its quota based on population established by the War Department, a state could preempt conscription that year under the 17 July 1862 Militia Act, James M. McPherson, *Battle Cry of Freedom: The Civil War Era* (New York: Oxford University Press, 1988), 491-93.

<sup>2</sup> Emphasis added, 5-9 August 1862, Vol. 1, William F. Colton Diaries, Coll. 10246, Historical Society of Pennsylvania, Philadelphia (hereafter HSP). Hereafter, I will refer to infantry regiments by their number and state only. I will append the terms “Cavalry” and “Heavy Artillery” where appropriate. Unless noted otherwise, the units considered in this project were volunteer.

Colton's experience is redolent of two bedrock principles of antebellum Northern life: membership and self-government. The citizen's membership in the political community comprised by local institutions and affiliations was his most palpable participation in "the Union." Union volunteers navigated their enlistment corporately and earnestly sought terms of enlistment that would be least injurious to their personal freedom. Even in a crisis like the Civil War, soldiering meant external controls on the citizen's freedom. The possibility that the Army might interfere in his regimental membership struck Colton as a kind of tyranny. Against it, he chose to renege out of the volunteer's privilege to choose his fellow comrades. Once decided, the civil swearing-in ceremony reinforced antebellum notions about citizen consent, self-government, and the common good. Many civic associations—fraternal societies, trade unions, reform leagues, and militia companies—formally incorporated themselves with their state. Militia companies routinely pledged allegiance to state and nation before their creation. Through the oath at muster-in the citizen became a temporary member of the Army, a martial institution sanctioned by his civilian representatives to protect the future of self-government.

Historians of Civil War soldiers stress that volunteers took an active role in shaping the meaning of the war to their societies. For instance, Charles Brooks places Confederate soldiers' making and unmaking of their regiments within the tradition of popular sovereignty to explain why Southern yeomen nevertheless remained "loyal to

the Confederate cause and fought a slaveholders' war."<sup>3</sup> This project likewise finds a mechanism of self-government in the mutinies of Union soldiers. It proposes they *possessed* a particular notion of rights derived from membership in their localities, which would inform their membership in the Union Army. Whether Anglo or emancipated slave, white ethnic or Northern free black, Union soldiers recognized the importance of membership. Through military protest actions they *defended* these "soldier rights" against local officers or Army policies. As a result they *expanded* the content and meaning of their rights and membership, both in the Army and in the nation, by war's end. It will argue that this pattern of military self-government obtained among Anglo, European ethnic, and Northern free black soldiers. More unexpectedly, it will also present evidence of this dynamic among soldiers who were recently emancipated slaves.

This project is not an attempt to explain why mutinies did *not* happen. It does not claim to be a comprehensive study describing every mutiny that occurred between 1861–1865 in the Union Army. And it is not a study proposing a general "theory of Civil War mutinies" as a phenomenon. Were that the goal it would be tempting to suggest that because mutinies predominated in the first three years of the war they are a sign of the Army's initial institutional weakness or simply the unwillingness of young men to bend to authority of any kind. But it could also be argued, if they had clustered in the last three

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<sup>3</sup> Charles E. Brooks, "Popular Sovereignty in the Confederate Army: The Case of Colonel John Marshall and the Fourth Texas Infantry Regiment" in *The View from the Ground: Experiences of Civil War Soldiers*, Aaron Sheehan-Dean, ed., (Lexington: University Press of Kentucky, 2007), 218. See also, Charles E. Brooks, "The Social and Cultural Dynamics of Soldiering in Hood's Texas Brigade" *Journal of Southern History* 67, no. 3 (August 2001): 535–72, which proposes the notion of soldier culture, the "unique mix of ideological and cultural resources" that "common soldiers" used for "defending and justifying their right" to fight "the Civil War mainly on their own terms."



years of the conflict, that mutinies as a historical problem would be signs of war weariness. Or because they are mostly absent from the last two years of the conflict that soldiers had become inured to the privations of war or the Army had become a more coercive institution.

Instead this project, shaped by the quality and quantity of documentary sources which reveal these protest actions, tries to use the mutinies that *did happen* as a window on Union soldier culture. Union veteran Walter Kempster agreed when “the editor of the *Rebellion Record* [Frank Moore] told me not long since that a more perfect history of the war of the rebellion could be written from the illustrations of camp and field life...than from any other source.”<sup>4</sup> To that end, it relies on the techniques of microhistory, an historical investigation particularly suited to studying in detail the features of communities in order to underscore conventional wisdom about a particular era as well as reveal new lines of change and social processes previously hidden without close examination. In the words of one scholar, “Microhistory observes historical change up close and notes how historical forces operated on individuals.”<sup>5</sup>

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<sup>4</sup> Walter Kempster, “The Volunteer Soldier in Relation to the Progress of Civilization,” in *War Papers Read before the Commandery of the State of Wisconsin, Military Order of the Loyal Legion of the United States*, Vol. I (Milwaukee: Burdick, Armitage & Allen, 1891), 74.

<sup>5</sup> Nicole Etcheson, “Review Essay: ‘Microhistory and Movement: African American Mobility in the Nineteenth Century,’” *Journal of the Civil War Era* 3, no. 3 (Sept. 2013), 393 [392–404].

Since the late 1980s, a growing contingent of Civil War historians have devoted their scholarly efforts to the experiences of ordinary Union and Confederate soldiers.<sup>6</sup>

Scholars have given sustained attention to Union soldiers' attitudes about slavery, race, manhood, loyalty, and community.<sup>7</sup> Some valuable studies have examined the sources of volunteers' expectations of Army life, their models for soldiering and manliness, and how they adapted to life in uniform.<sup>8</sup> These efforts privilege the ordinary soldier's

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<sup>6</sup> These scholars rejuvenated the body of literature created by Bell Irvin Wiley, *The Life of Johnny Reb: The Common Soldier of the Confederacy* (Indianapolis: Bobbs-Merrill, 1943) and *The Life of Billy Yank: The Common Soldier of the Union* (Indianapolis: Bobbs-Merrill, 1952). James I. Robertson, Jr., *Soldiers Blue and Gray* (Columbia: University of South Carolina Press, 1988) updated Wiley while applying his approach to the experience of the United States Colored Troops. The theoretical keystone for the new scholarship was John Keegan, *The Face of Battle: A Study of Agincourt, Waterloo, and the Somme* (New York: Viking, 1976). Key concerns for Civil War scholars have remained motivation and combat experience, as well as questions about political ideology, manhood, and community life. See Gerald Lindemann, *Embattled Courage: The Experience of Combat in the American Civil War* (New York: Free Press, 1987); Reid Mitchell, *Civil War Soldiers* (New York: Viking, 1988); Randall Jimmerson, *The Private Civil War: Popular Thought during the Sectional Conflict* (Baton Rouge: Louisiana State University Press, 1988); Earl J. Hess, *Liberty, Virtue, and Progress: Northerners and their War for the Union*, 2<sup>nd</sup> ed., (New York: Fordham University Press, 1997) though not confined only to soldiers' experiences; James M. McPherson, *What They Fought For, 1861-1865* (Baton Rouge: Louisiana State University Press, 1994) and *For Cause and Comrades: Why Men Fought in the Civil War* (New York: Oxford University Press, 1997); Hess, *The Union Soldier in Battle: Enduring the Ordeal of Combat* (Lawrence: University Press of Kansas, 1997).

<sup>7</sup> Chandra Manning, *What This Cruel War Was Over: Soldiers, Slavery, and the Civil War* (New York: Knopf, 2007); Nina Silber, *Gender and the Sectional Conflict* (Chapel Hill: The University of North Carolina Press, 2009); Christian G. Samito, *Becoming American Under Fire: Irish Americans, African Americans, and the Politics of Citizenship during the Civil War Era* (Ithaca, NY: Cornell University Press, 2009); Nicole Etcheson, *A Generation at War: The Civil War Era in a Northern Community* (Lawrence: University Press of Kansas, 2011).

<sup>8</sup> Reid Mitchell, *The Vacant Chair: The Northern Soldier Leaves Home* (New York: Oxford University Press, 1993); Lorien Foote, *The Gentlemen and the Roughs: Violence, Honor, and Manhood in the Union Army* (New York: New York University Press, 2010); Steven J. Ramold, *Baring the Iron Hand: Discipline in the Union Army* (De Kalb, IL: Northern Illinois University Press, 2009); Ricardo A. Herrera, "Self-Governance and the American Citizen as Soldier, 1775-1861," *The Journal of Military History* 65, no. 1 (January 2001): 21-52; Thomas Rodgers, "Billy Yank and G. I. Joe: An Exploratory Essay on the Sociopolitical Dimensions of Soldier Motivation," *The Journal of Military History* 69, no. 1 (January 2005): 93-121.

experience in order to understand not only how the war shaped the soldiers, but also how the soldiers shaped the war.<sup>9</sup>

As the first scholarly study of mutiny in the Union Army across its major ethnic and racial divides, it will link military service, self-government, and associationalism in a relationship of membership and rights to shed additional light on the nature of mid-Century citizenship and the effects of four years of war.

Writing after the Civil War, Union veteran General John Logan, classified the American volunteer as “a soldier, a citizen, and a legislator” who was “an integral part of the government and country for which he fights.”<sup>10</sup> In Logan’s experience the ordinary American citizen wielded a “personal and direct interest in the government” and a “voice” equal to “the richest and most prominent citizen” in the “direction of national affairs.” He “belongs to it; he is part of it” even while in uniform. But only from within a culture of associationalism could Logan have reasonably contended that the citizen literally “*helps to make its laws, to elect its officials, to direct its affairs.*”<sup>11</sup>

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<sup>9</sup> Valuable appraisals of this scholarship are Aaron Sheehan-Dean, “The Blue and the Gray in Black and White: Assessing the Scholarship on Civil War Soldiers” in Sheehan-Dean, ed., *The View from the Ground*, and Jason K. Phillips, “Battling Stereotypes: a Taxonomy of Common Soldiers in Civil War History,” *History Compass* 6 (September 2008): 1407–1425; Ricardo A. Herrera, “A People and Its Soldiers: The American Citizen as Soldier, 1775–1861,” *International Bibliography of Military History* no. 33 (2013): 9–34.

<sup>10</sup> John A. Logan, *The Volunteer Soldier of America* (Chicago: R. S. Peale & Company, 1887), v. Logan is an example of the celebratory veteran literature that appeared after 1880. Gerald Linderman, *Embattled Courage*, 275, calls this period until about 1910 a “revival” that followed a “hibernation,” 266, during most of Reconstruction. The period of revival saw the largest wave of veteran literature published including battle accounts, memoirs, and regimental histories.

<sup>11</sup> Logan, *Volunteer Soldier*, 90–91, emphasis added.

Historians have broadened nineteenth-century political participation through the notion of associational culture.<sup>12</sup> Told most comprehensively in Mary P. Ryan's *Civic Wars*, this story lies not in the "centers of government" but in "the far more dispersed and elusive habitats of the people." Those were places of civic encounter and contest like Manhattan's avenues, parks, and boulevards; its fraternal halls, neighborhood saloons, and ethnic enclaves. There the denizens of America's most polyglot city collaborated and contended with one another.<sup>13</sup>

The legal historian William Novak in turn offers a mechanism in his theory of associationalism for how those "dispersed and elusive habits" manufactured self-government. He identifies the common law of association and membership that defined the antebellum citizen's package of rights. Returning to the antebellum jurist Francis Lieber's 1853 tome *Civil Liberty and Self-Government*, "institutional self-government" was a form of "articulated liberty" possessing an "inter-guaranteeing, and consequently, inter-limiting character." Nowhere was it better and more essentially articulated than in local self-government, where "every institution" must have "the right to pass such by-laws as it finds necessary for its own government."<sup>14</sup>

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<sup>12</sup> Ronald P. Formisano, "The Party Period Revisited," *Journal of American History* 86, no. 1 (June 1999): 107-20 (93-120); John Lauritz Larson, *The Market Revolution in America: Liberty, Ambition, and the Eclipse of the Common Good* (New York: Cambridge University Press, 2010), 110-11. Of course, the earliest observer of American associationalism was Alexis de Tocqueville, *Democracy in America*, J. P. Mayer, ed. (New York: Harper & Row, 1969 [orig. 1832]), 513.

<sup>13</sup> Mary P. Ryan, *Civic Wars: Democracy and Public Life in the American City during the Nineteenth Century* (Berkeley: University of California Press, 1997), 81, 129-31.

<sup>14</sup> Francis Lieber, *On Civil Society and Self-Government* (Philadelphia: J. B. Lippincott, 1874), 319. In fact, "the by-law is the rule in our system" to the point that they were "laws which any set of men have the right to pass for themselves within and under the superior law, charter, etc., which constitutes them into a society," 322, 323n.

With Lieber in clear view, Novak defines associationalism as “an activist practice of well-regulated governance encompassing all levels of cooperation, from the formal institutions of national and local governments to voluntary groups and economic partnerships.” This network of self-government depended on “the right of institutions and associations to pass the laws and regulations” conducive to their harmonious collective life. It produced a political culture in which persons *accrued* specific rights, privileges, and obligations as *members* of an incorporated body—be that a business, a church, a fraternal order, or even a volunteer militia company. American citizens became legislators through these voluntary associations anytime they enacted such democratically conceived statutes. Like Lieber before him, Novak considers by-laws the “root of the Anglo-American tradition of self-government.”<sup>15</sup>

Associationalism, as much as voting, was how antebellum citizens took part in the nations’ civic institutions. The country’s information revolution that historians have increasingly identified as “print culture” furthered amplified the strains of associational life. Peter Parish rightly states that “it can hardly be disputed that the United States was the most literate society, with the most widespread popular education, in the mid-nineteenth-century. Americans were the champion newspaper readers and the champion letter writers of the nineteenth century.”<sup>16</sup> Literacy made Americans avid consumers of political tracts, speeches, and essays. They followed political developments closely in

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<sup>15</sup> William J. Novak, “The American Law of Association: The Legal-Political Construction of Civil Society,” *Studies in American Political Development* 15 (January 2001), 173, 174.

<sup>16</sup> Peter J. Parish, “The Distinctiveness of American Nationalism” in *The North and the Nation in the Era of the Civil War*, ed. Adam I. P. Smith and Susan Mary-Grant, (New York: Fordham University Press, 2003), 59.

the era's partisan newspapers. And associationalism made this culture of critical engagement possible in a real way. Public laws incorporated the schools, newspapers, civic organizations, and fraternal societies of America's local communities and granted legal standing and powers like acquiring and disposing of property to those private associations.

Northern volunteers could also find ammunition for their challenges to military rules and regulations in the strain of populist democratic action named by historian Larry D. Kramer as popular constitutionalism, habits of self-government that the sovereign people employed against wayward magistrates.<sup>17</sup> In the antebellum view, it “was ‘the people themselves’—working through and responding to their agents in the government—who were responsible” for ensuring the Constitution “was properly interpreted and implemented.”<sup>18</sup> Mutinies and military protest actions reveal this belief at work in soldiers' conviction that they could properly adjudicate the boundaries between their soldier rights and military law such as the Articles of War. In the context of popular constitutionalism soldier rights drew on the tradition of “customary constitutions”

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<sup>17</sup> Larry D. Kramer, *The People Themselves: Popular Constitutionalism and Judicial Review* (New York: Oxford University Press, 2004), 23-24. His complete definition of popular constitutionalism is: “the invocation of a specific set of legal remedies by which “the people”—conceived as a collective body capable of independent action—were empowered to enforce the constitution against errant rulers. The community itself had both a right and a responsibility to act when the ordinary legal process failed, and unconstitutional laws could be resisted by community members who continued to profess loyalty to the government and to follow its other laws,” 25. It also indicates the intellectual affinity between his theory of popular constitutionalism and that of active sovereignty laid out by Christian G. Fritz, *American Sovereigns: The People and America's Constitutional Tradition before the Civil War*, (New York: Cambridge University Press, 2008).

<sup>18</sup> Kramer, *ibid.*, 7.

reaching back to English common law.<sup>19</sup> Customary constitutions likewise strengthened the standing of Logan's notion that citizen volunteers remained legislators in uniform who "interpreted and implemented" military law through the prism of their soldier rights.

Granted that the particular manifestations of soldiers' rights were particular to each company or regiment, and no organization adhered to all of the following simultaneously or perfectly, it is still helpful to make some general descriptions of what they entailed. First, many volunteers claimed that the very fact of membership in a martial association permitted them to condone or condemn potential applicants, to choose their officers, and even to freely leave the organization. Second, the self-governing nature of association spawned a class of foundational rights and one of procedural rights. Foundational rights preserved the regiment as the bedrock of self-government and local attachments through state affiliation, organizational integrity, and a calendar of service (i.e., soldiers' exact muster in and out dates). Procedural rights protected the founding rights through actions like scrutiny and interposition as well as protection from what they considered unjust discipline and manipulation of pay. The soldiers' right to scrutiny depended on the venerable Anglo-American levers of citizen sovereignty identified by Christian Fritz: "petition (requests for governmental action), remonstrance (protests of governmental policy), and instructions (directives by voters to their representatives)."<sup>20</sup> The right to interposition was an antebellum understanding of federalism whereby different levels or

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<sup>19</sup> Customary constitutions were mechanisms of the English common law tradition in which accrued rights and obligations between lord and subject served as "the framework for argument" used by a community to ensure "an appropriate balance between liberty and power, Kramer, 13, 21-24.

<sup>20</sup> Fritz, *American Sovereigns*, 18.

branches of government protected citizens' rights by jealously guarding their own place in the constitutional order.<sup>21</sup>

Association, localism, print culture, and popular constitutionalism together made for a rich matrix that nourished the soldier rights claimed by diverse groups of Union volunteers in varying degrees and contrasting ways while in uniform. In turn, mutinies were conspicuous moments when volunteer soldiers asserted these rights and demanded that the Army satisfy its contractual obligations. Historians have typically noted Northerners' commitment to associationalism during the Civil War through the political clubs and benevolent organizations that sprang from prewar reforming impulses. Therefore, even prior to the 1860 election must be included the Republican "Wide Awakes." Once hostilities commenced national bodies like the United States Christian Commission and the United States Sanitary Commission appeared. During the war local associations staffed largely by women and often in close affiliation with the regiments from their towns and counties also made indispensable contributions. Union Clubs deepened loyalty, Soldiers' Aid Societies provided necessities to troops in the field, nurses and caregivers ministered to wounded soldiers, and fund-raising drives provided

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<sup>21</sup> On scrutiny see Fritz, *American Sovereigns*, "Elected officials were the people's "servants, subject to election and dismissal" if they failed to be "open to instruction" and "directly responsible" to those they served," 18, and also 45–46, 169, 182–84. Interposition depended on separation of powers and a vigorous application of checks and balances. It was most famously deployed in the campaign against the Alien and Sedition Acts in 1798–99. See *ibid.*, 193–94; Larry Kramer, *The People Themselves*, 106–07; Kenneth M. Stampp, "The Concept of Perpetual Union" in Stampp, *The Imperiled Union: Essays on the Background of the Civil War* (New York: Oxford University Press, 1980), 28–9.



for destitute soldiers' families.<sup>22</sup> Building on these insights, this study sees multiple ethnic groups participating, each through its particular lineage of membership and self-government. It adds the prewar volunteer companies and regiments to the list of significant realms of associational life. And among Anglos, ethnic soldiers, and Northern blacks it proposes a continuing dialogue between citizen-soldiers and their home communities through the workings of popular constitutionalism alongside associational culture.

Volunteers brought that cultural matrix into play when they joined their wartime companies and regiments. By doing so they provided for the common defense while claiming soldier rights in a tradition stretching back to the mid-seventeenth century.<sup>23</sup> In times of emergency colonial citizens had volunteered for militia companies where they kept their own payment records; took note of who enlisted them, for which specific campaign, and for what agreed pay; and complained of unsatisfactory or insufficient provisions and weapons. Militiamen responded with mutinies or mass desertions when

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<sup>22</sup> Ulysses S. Grant, *Personal Memoirs of U. S. Grant* (New York: Charles L. Webster, 1894), 1:129, while living in Galena, Illinois "occasionally met with the 'wide-awakes'—Republicans—in their rooms, and superintended their drill;" likewise, William Jackson Palmer was elected the secretary of the Philadelphia Young Men's Republican Club in 1860 and marched in the Wide-Awakes' demonstrations throughout the city, Isaac H. Clothier, ed., *Letters, 1853-1868 General William J. Palmer* (Philadelphia: Ketterlinus, 1906), unpaginated appendix. For more on the Wide Awake movement see John Grinspan, "'Young Men for War': the Wide Awakes and Lincoln's 1860 Presidential Campaign," *Journal of American History* 96 "Abraham Lincoln at 200" (September 2009): 357–78. Phillip S. Paludan, *A People's Contest: The Union and Civil War, 1861-1865*, 2nd ed. (Lawrence: University Press of Kansas, 1996), 237, 353-55; J. Matthew Gallman, *The North Fights the Civil War: The Home Front* (Chicago: Ivan R. Dee, 1994), 110-115; Peter J. Parish, "Conflict by Consent," in *The North and the Nation in the Era of the Civil War*, ed. Adam I. P. Smith and Susan Mary-Grant (New York: Fordham University Press, 2003), 159-60.

<sup>23</sup> Allan R. Millett and Peter Maslowski, *For the Common Defense: A Military History of the United States of America*, Rev. Ed. (New York: Free Press, 1994), 6, view the volunteer, local militias as "little societies" raised to meet a specific emergency as distinct from the town's common, standing militia.

these aspects of the contract were violated.<sup>24</sup> Mutinies also broke out in the Continental Army more frequently as the Revolutionary War progressed. They happened across the regiments of the conventional force; those in the Pennsylvania and New Jersey regiments in 1781 are merely the most spectacular. Men in the Continental Army served an institution that claimed unusually extensive authority over their lives in uniform, but routinely could not meet their most basic human needs and frequently would not respect their most basic freedoms. A failure of morale as it related to faith in the cause, however, was rarely their motivation.<sup>25</sup>

Continental soldiers, while they had important differences in class and status from the Anglo volunteers of this study, were kindred spirits with many of the Civil War's African American and white ethnic soldiers. Drawn increasingly from the lowest and poorest levels of colonial society, Continentals had different concerns and a different interface with political institutions than the "middling sorts" who made up the state militias. Striking out in defense of a moral economy derived from the Anglo-American culture of deference, Continental mutinies typically arose over issues of soldiers' sustenance and the Army's obligations of pay, clothing, and shelter.<sup>26</sup> Likewise, mutinies by emancipated slave soldiers also carried with them condemnations of the Army for

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<sup>24</sup> Fred Anderson, *A People's Army: Massachusetts Soldiers and Society in the Seven Years' War* (Chapel Hill: University of North Carolina Press, 1984), 167-95.

<sup>25</sup> John A. Nagy, *Rebellion in the Ranks: Mutinies of the American Revolution* (Yardley, PA: Westholme, 2008), xv.

<sup>26</sup> Charles Patrick Niemeyer, *America Goes To War: A Social History of the Continental Army* (New York: New York University, 1996), 128, 163-64; Gregory T. Knouff, *The Soldiers' Revolution: Pennsylvanians in Arms and the Forging of Early American Identity* (University Park: Penn State University Press, 2012), xx-xxii. See also James Kirby Martin and Mark Lender, *A Respectable Army: The Military Origins of the Republic*, 2nd ed. (Arlington Heights, IL: Harlan Davidson, 2006).

failing to make good on its promises of equal pay and humane discipline. Revolutionary War soldiers dissented when service in the Continental Army appeared to violate their perception of the Revolution's "larger struggle to preserve local interests."<sup>27</sup>

With antecedents in the Revolutionary struggle, therefore, the localism of nineteenth-century American life meant that Civil War soldiers also did not understand or act on their rights of membership identically across ethnic and racial boundaries, or even from regiment to regiment. It is important to understand that soldier rights were not synonymous with what a modern American would think of as one's cache of political and civil rights. Although rooted in the American system of constitutional rights, soldier rights defined what modicum of power ordinary volunteers—individually and corporately—had over the organization and day-to-day operation of their military association. Yet these rights were not one codified and consistent system, but rather a mosaic of idiosyncratic and parochial privileges, immunities, and duties collectively asserted from regiment to regiment.

The colonial legacy of the service contract, the utter centrality of localism to Revolutionary War soldiers,<sup>28</sup> and the pervasiveness of Northern associational culture ensured that 1861's citizens in uniform placed great faith in their company or regiment as the best defense of their rights as soldiers. Because they created the organization and agreed on key terms of service they effectively legislated and governed its existence. It belonged to them as much as any peacetime political party or ethnic brotherhood. For

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<sup>27</sup> Knouff, *Soldiers' Revolution*, xiv.

<sup>28</sup> Knouff, *ibid.*, xiii–xv.

example, in April 1861 the male citizens of Springfield, Illinois, organized the Zouave Greys and the German-born Turners of Cincinnati, Ohio, formed their companies in May.<sup>29</sup> Word of Robert E. Lee's 1863 invasion prompted one group of discharged soldiers to meet at the hall of the Diligent Engine Company (a body of voluntary firemen) in central Philadelphia, form the "Dana Cavalry" with a term of six months, and "go into active service immediately," convinced that "our services are needed for defense of our State."<sup>30</sup> Organizations such as these reflected their communities and remained tied to them throughout the war.<sup>31</sup>

Citizens' self-government through association gained the "legal recognition of their right to exist" via incorporation by the state.<sup>32</sup> Participation in them reinforced that membership had its privileges; drafting constitutions and passing by-laws among them. State laws incorporating these military companies rested on the relationship between membership and rights. For example, an 1837 Illinois act to stimulate the formation of volunteer companies empowered their members to adopt a constitution and by-laws.

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<sup>29</sup> Illinois description found in Henry Burell Papers, Civil War Miscellaneous Collection, USAMHI. The Greys came together on 16 April in response to Lincoln's first call and were the first of Illinois's initial 200 companies that were eventually formed into ten regiments. On the creation of the 9th Ohio see Joseph R. Reinhart, ed., *A German Hurrah!: Civil War Letters of Friedrich Bertsch and Wilhelm Stangel, 9th Ohio Infantry* (Kent, OH: Kent State University Press, 2010).

<sup>30</sup> "Anderson Cavalry," 30 June 1863, *Philadelphia Press*. These were former members of the Anderson Troop recruited by William Jackson Palmer in 1861 and discussed in Chapter II.

<sup>31</sup> Earl J. Hess, *Liberty, Virtue, and Progress: Northerners and Their War for the Union*, 2nd ed. (New York: Fordham University Press, 1997), 60-61; According to Paludan, *People's Contest*, 22, citizens "formed companies and regiments of men who came from the same place and shared the same values and experiences" ensuring "their war experience would be linked to the communities from which they came." J. Matthew Gallman, *The North Fights the Civil War*, 188, says this phenomenon made the Civil War "a national war fought by local communities."

<sup>32</sup> Douglas Bradburn, *The Citizenship Revolution: Politics and the Creation of the American Union, 1774-1804* (Charlottesville: University of Virginia Press, 2009), 217-18.

Any associate could inspect their founding documents at any time. The rank and file possessed a right of election for their major and other staff officers in addition to their company officers. Rights of membership also took on a corporate character as when companies retained a right to only be consolidated into battalions with others from their county.<sup>33</sup>

The entwining of military service and associational culture was so strong that Anglo settlers carried it with them into the territories. When Minnesota incorporated the volunteer Pioneer Guards in 1858, its constitution gave a board of direction with commissioned officers and five other ranks the power to change its by-laws. Those rules contained fines for “nineteen different types of neglect or violation of rules.”<sup>34</sup> The by-laws of one Kansas militia company stipulated the duties of officers—elected by soldiers through a formal vote—and fines for “neglect of their duties.” Finally, militia members could amend their by-laws by majority vote.<sup>35</sup>

By the time citizen volunteers found themselves in the Union Army, these privileges of membership became elevated to the status of soldier rights because soldiers accepted the first duty of citizenship: laying down their lives in the Republic’s defense. By-laws were simply legal manifestations of the solidarity that bound “individual members of the

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<sup>33</sup> “An Act Encouraging Volunteer Companies,” 2 March 1837, *The Public and General Statute Laws of the State of Illinois* (Chicago: Stephen F. Gale, 1839), 500–501. It also provided that by-laws would fix fines and penalties for violations of company rules, in particular the necessity of regular times of muster and parade. Furthermore, the company was legally capable of suing members before a justice of the peace who refused to pay fines. The incentive in Illinois, and elsewhere, for serving in a volunteer outfit was release from any further militia duty after a stint of eight or more years.

<sup>34</sup> Citizens founded the Pioneer Guard in 1856, Gertrude W. Ackermann, “Volunteer Guards in Minnesota,” *Minnesota History* 16, no. 2 (June 1935), 166–67.

<sup>35</sup> Constitution, by-laws, and charter of The Stubbs Militia Company organized at Lawrence, Kansas, 16 April 1855, item 102864, Port Vault K 978.1-D74s St93c, Kansas State Historical Society, Topeka.

association for the good of the whole,” what Novak calls “the heart of true self-government.”<sup>36</sup> But the tradition and practice of membership rights coexisted uneasily with the ordinary law of the United States Army—its regulations and Articles of War—and could be transgressed by bureaucratic expediency or be trampled on by asinine officers. General Logan’s soldier-legislators dissented when they believed that officers or the Army violated their rights as members of a volunteer company. In response, citizen-soldiers could identify matters of constitutional importance hanging in the balance. And that could call forth from them a range of military protest actions, the most grave being mutiny.

The military law of the Union Army, in the Articles of War and the Army’s regulations, structured citizen-soldiers assertions of their role as “legislators.” Enacted by Congress to govern the military, these statutes functioned as constitutional and ordinary law to govern soldiers’ lives. The citizens’ representatives in Congress had enacted the one hundred odd Articles of War in 1806, extending the rule of law to all soldiers, providing them with basic protections of citizen rights, and assuring them a means of redress through the military justice system.<sup>37</sup>

Article 1 of the Army regulations—“Military Discipline”—served as a kind of customary constitution for the relations between soldiers and officers across the entire institution. It “required” subordinate officers and soldiers “to obey strictly” and “execute

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<sup>36</sup> Novak, “The American Law of Association,” 173–74.

<sup>37</sup> Law of 10 April 1806, Ninth Congress, First Session, Ch. 20—1806 in John F. Callan, ed. *The Military Laws of the United States, Relating to the Army, Marine Corps, Volunteers, Militia, and to Bounty Lands and Pensions: From the Foundation of the Government to the Year 1863* (Philadelphia: George W. Childs, 1863), 170-95.

with alacrity” all “lawful orders” of their “superiors.” When subordinates failed in this duty superiors had to exercise discipline “strictly conformable to military law” with no recourse to “tyrannical or capricious conduct, or by abusive language.”<sup>38</sup> A soldier’s rank determined his relative superior or inferior status and served as the starting point for all power relations in the Army.

In addition to the principles outlined at the beginning of the Army regulations, the Articles of War defined the legality of soldiers’ actions and set maximum penalties for the violations of these statutes. Several articles impinged directly on the mutinies covered herein. Article 6 punished soldiers for “contempt or disrespect” toward commanders; Article 7 mandated capital punishment for any member of the Army “who shall begin, excite, cause, or join in, any mutiny or sedition;” Article 8 allowed the same punishment for soldiers who did nothing to stop a mutiny or report on an “intended” one; Article 9 provided the possibility of capital punishment for soldiers who “offer any violence” against their superior officer or “any lawful command” of his; Article 10 mandated that soldiers have the Articles of War read to them upon muster-in; Article 35 permitted soldiers to complain of abuse by their company officers to their colonel and receive a regimental court-martial; Article 44 demanded that soldiers attend parades and exercises on time; Article 45 condemned drunkenness *on duty*; Article 46 mandated death for sleeping on guard duty; Article 54 expected all members to “behave themselves orderly in quarters and on their march;” Articles 64–76 governed the

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<sup>38</sup> *Revised United States Army Regulations of 1861, with an Appendix Containing the Changed Laws Affecting Army Regulations and Articles of War to June 25, 1863* (Washington, D.C.: United States War Department, Government Printing Office, 1863), Article I, nos. 1-3.

proceedings of courts-martial; Article 79 extended *habeas corpus* protections to those charged with crimes; Article 83 provided for officers convicted of “conduct unbecoming an officer and a gentleman” to be “dismissed the service;” Article 87 required two-thirds of the panel in a court-martial to sign off on a death sentence as well as extending prisoners protection from double jeopardy; Article 89 covered the powers of department commanders to suspend death sentences and the power of the President to “pardon or mitigate;” Article 97 made volunteers in the pay and service of the United States “governed by these rules and articles of war;” Article 99 allowed that other uncited “crimes not capital,...disorders and neglects...to the prejudice of good order and military discipline” could still be tried by a court-martial; and Article 101 mandated that the Articles should be read to troops every six months.<sup>39</sup>

These strict relationships of authority and conduct do not accurately reproduce the reality of soldiers’ interface with the institution. Military protest actions like insubordination and mutiny erupted when officers violated the Army’s statutes governing military life. At the same time, military law could also provoke soldiers’ protest when they believed their more foundational soldier rights of self-governance and membership had been transgressed. Even in the regiments of the USCT, however, the more hierarchical arrangements of power could still produce mutiny by freedmen-soldiers against white officers who only honored the Articles and regulations in the breach. Particularly the regulations’ requirement that punishment be “strictly

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<sup>39</sup> *Revised United States Army Regulations of 1861, with an Appendix Containing the Changed Laws Affecting Army Regulations and Articles of War to June 25, 1863* (Washington, D.C.: United States War Department, Government Printing Office, 1863), Articles of War, 485–502. Emphasis added.



conformable to military law” resonated with any Union soldier. When the basic protections against abuse and the promise of due process were not observed, soldiers’ responses could be increasingly strenuous military protest actions.

Exactly how associationalism and localism came into conflict with the Army’s prerogatives to produce military protest actions requires returning to the two principles of membership and self-government stated at the outset. Midcentury America’s pervasive parochialism accounts for the “national war fought by local communities” that was the Union war effort. It resulted in the national government creating a literal *Federal* army involving volunteer regiments organized by the states under the administrative and legal authority of the United States Army. In the Union Army, “localism aided rather than hindered national patriotism.”<sup>40</sup> All ethnic groups knew what it meant to be members of a local community, enclave, or neighborhood. Those local attachments carried strong attributes of mutuality and reciprocity.

Anglos began the war tied most intimately to their town or state. Without a doubt service in the Army drew upon volunteers’ home-grown models of soldiering and manliness. These models of behavior helped hold men to their new memberships within their local company or regiment. This bound soldiers more palpably to the nation and led them to equate the prospects for self-government in their regiment with the health of the Union cause. Mutinies were expressions of Anglos’ felt ownership over their regimental associations against the Army hierarchy. They possessed a lived experience of self-

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<sup>40</sup> J. Matthew Gallman, *The North Fights the Civil War: The Home Front* (Chicago: Ivan R. Dee, 1994), 188; Reid Mitchell, “The Northern Soldier and His Community,” in Maris A. Vinovskis, ed., *Toward a Social History of the American Civil War: Exploratory Essays* (New York: Cambridge University Press, 1990), 92.

government in their municipalities and voluntary associations. There they enacted constitutions and charters, passed by-laws, elected their governing officers and had the power to say with whom they would collaborate. This culture disposed them to understand these prerogatives as their soldier rights once in uniform. Mutinies became moments when Anglo soldiers reasserted self-government in the Army and by doing so cleaved more closely to the Union cause in the aftermath.

Ethnic citizens similarly felt membership in their neighborhood or district most intimately. Like their Anglo fellow citizens, European ethnic soldiers like the Irish and Germans came from communities fully enmeshed in Northern society's print and associational cultures. Therefore, they too expressed many of the same basic kinds of complaints about soldier rights as Anglos, alongside whom many fought with in units from their towns or regions. Significant numbers also organized ethnically homogenous companies and regiments that "represented the basic loyalty and patriotism of immigrants as well as their skill in manipulating political practices and institutions to their advantage."<sup>41</sup>

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<sup>41</sup> Burton, *Melting Pot Soldiers*, x.

Yet immigrants and first-generation Americans remained one of Americas “outside groups,” though to a lesser extent than African Americans, differentiated from the mainstream by language, religion, and customs.<sup>42</sup> Ethnic Americans contended with nativism even though they considered themselves loyal citizens.<sup>43</sup> Still they participated in the North’s political culture before the war and had a vibrant network of associations while maintaining a keen sense of affiliation with their own ethnic group. When war broke out, America’s ethnic citizens had plenty of confidence that their patriotism equaled or surpassed that of native-born Anglos, yet they displayed a need throughout it to prove that loyalty to the wider society. In this case, often countervailing tendencies

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<sup>42</sup> Susannah J. Ural, “Introduction” in Ural, ed., *Civil War Citizens: Race, Ethnicity, and Identity in America’s Bloodiest Conflict* (New York: New York University Press, 2010), 3.

<sup>43</sup> Historians have written a great deal on the phenomenon of nativism beginning with John Higham, *Strangers in the Land: Patterns of American Nativism, 1860-1925* (New York: Atheneum, 1966). For the Irish see, Kerby A. Miller, *Emigrants and Exiles: Ireland and the Irish Exodus to North America* (New York: Oxford University Press, 1985); Noel Igantiev, *How the Irish Became White* (New York: Routledge, 1995); Kevin Kenny, *Making Sense of the Molly Maguires* (New York: Oxford University Press, 1998); David Noel Doyle, “The Remaking of Irish America, 1845-1880,” in Joseph J. Lee and Marion R. Casey, eds., *Making the Irish American: History and Heritage of the Irish in the United States* (New York: New York University Press, 2006), 213-255. Pertinent studies in English for German-speaking immigrants are Kathleen Neils Conzen, *Immigrant Milwaukee, 1836-1860: Accommodation and Community in a Frontier City* (Cambridge: Harvard University Press, 1976); Hartmut Keil, “German Immigrant Workers in Nineteenth-Century America: Working-Class Culture and Everyday Life in an Urban Industrial Setting” in Frank Trommler and Joseph McVeigh, eds., *America and the Germans: An Assessment of a Three-Hundred-Year History*, vol. 1: *Immigration, Language, Ethnicity* (Philadelphia: University of Pennsylvania Press, 1991); Walter D. Kamphoefner, “German-Americans and Civil War Politics: A Reconsideration of the Ethnocultural Thesis” *Civil War History* Vol. 37 (1991): 232-46.

toward separateness and assimilation could not only coexist, but work hand in hand.<sup>44</sup> To that end, their circle of membership expanded to encompass a larger statewide, and even national, ethnic community. In a way similar to Anglos, this wider field of vision while working within America's public culture to articulate loyalty, also demonstrated their ethnicity's practice of self-government.

In remarkable proximity to European ethnic Americans in terms of membership and self-government were the Northern free black communities. By the same token they were rather farther away from their racial brethren in bondage. Despite exclusion from the statehouse and the polls, Northern blacks formed civic organizations to press for suffrage, conducted parades to mark the anniversaries of state emancipation laws, and inaugurated a national convention movement to articulate a vision of full citizenship. Through a network of black newspapers they interjected their collective voice into contemporary print culture while rallying their churches to shape the era's wave of moral

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<sup>44</sup> Russell A. Kazal, *Becoming Old Stock: The Paradox of German-American Identity* (Princeton, NJ: Princeton University Press, 2004) studies Philadelphia Germans at the turn of the twentieth century who employed their ethnicity provisionally: working-class, Catholics identified themselves with "new" immigrants as "white ethnics" while middle-class Lutherans tied themselves to "Pennsylvania Dutch" heritage claiming a status as "old stock" European Americans. Immigration history has generally moved from the assimilationist to the cultural pluralist paradigm. Oscar Handlin, *The Uprooted: The Epic Story of the Great Migrations that Made the American People* (Boston: Little, Brown, 1951) described emigrants for whom "the old ways proved ineffective under new conditions," 83. John Higham, *Strangers in the Land: Patterns of American Nativism, 1860-1925* (New York: Atheneum, 1973); remains an excellent treatment of nativism's persistent anti-Catholic, anti-radical, and proto-nationalist attributes. John Bodnar, *The Transplanted: A History of Immigrants in Urban America* (Bloomington: Indiana University Press, 1985) updated Handlin in the wake of the civil rights decades to present immigrants who created ethnic identities which were admixtures of their old-world life ways and the pressures of assimilation. More recently, Matthew Jacobson, *Whiteness of a Different Color: European Immigrants and the Alchemy of Race* (Cambridge: Harvard University Press, 1998) and David Roediger, *The Wages of Whiteness: Race and the Making of the American Working Class*, new edition (New York: Verso, 2007) have proposed the affinities between race and ethnicity in how working-class racism has contributed to immigrant identity. Also valuable are Hartmut Kiel, ed., *German Workers' Culture in the United States 1850 to 1920* (Washington, D.C.: Smithsonian Institution Press, 1988) and Roger Daniels, *Coming to America: A History of Immigration and Ethnicity in American Life* (New York: HarperCollins, 1990), 127-50.

reforms, most notably through abolitionism. According to historian Patrick Rael, Northern “antebellum black protest” gained “power from precisely the factors that rendered northern free blacks less culturally and intellectually autonomous of the white world than their enslaved brethren.”<sup>45</sup>

As the sectional crisis of the 1850s intensified, Northern blacks remained loyal to their race and to the principles of the Revolution. The free blacks of Boston and other Northern cities publicly interfered with federal officials’ arrest and remanding of escaped slaves under the national Fugitive Slave Law of 1850.<sup>46</sup> In response to news of John Brown’s Harper’s Ferry raid, African Americans convened a Providence, Rhode Island, public meeting in November 1859. Its proceedings were carried in an organ of the Northern black press. Speaking to the gathered throng to express they “fully sympathize with our friend Capt. John Brown” was Leonard Phenix, who went on to

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<sup>45</sup> Patrick Rael, “The Market Revolution and Market Values in Antebellum Black Protest Thought,” in Patrick Rael, ed., *African-American Activism before the Civil War: The Freedom Struggle in the Antebellum North* (New York: Routledge, 2008), 288, and again, “There were fewer more ardent apostles of...a rational, bourgeois public sphere than free African Americans in the antebellum North,” 290. Contributions to the history of Northern black public culture include Benjamin Quarles, *Black Abolitionists* (New York: Oxford University Press, 1969); David W. Blight, *Frederick Douglass’ Civil War: Keeping Faith in Jubilee* (Baton Rouge: Louisiana State University Press, 1989); Jane H. Pease and William H. Pease, *They Who Would Be Free: Blacks Search for Freedom, 1830-1861* (Champaign: University of Illinois Press, 1990); Gary B. Nash, *Forging Freedom: The Formation of Philadelphia’s Black Community, 1720-1840* (Cambridge: Harvard University Press, 1991); James Oliver Horton, *Free People of Color: Inside the African American Community* (Washington, D.C.: Smithsonian, 1993); Patrick Rael, *Black Identity and Black Protest in the Antebellum North* (Chapel Hill: University of North Carolina Press, 2002); Shane White, *Stories of Freedom in Black New York* (Cambridge: Harvard University Press, 2002); Leslie M. Alexander, *African or American?: Black Identity and Political Activism in New York City, 1784-1861* (Champaign: University of Illinois Press, 2008); Rita Roberts, *Evangelicalism and the Politics of Reform in Northern Black Thought, 1776-1863* (Baton Rouge: Louisiana State University Press, 2011); Stephen Kantrowitz, *More Than Freedom: Fighting for Black Citizenship in a White Republic, 1829-1889* (New York: Penguin Books, 2012).

<sup>46</sup> James Oliver Horton, “Defending the Manhood of the Race: The Crisis of Citizenship in Black Boston at Midcentury” in Martin H. Blatt, Thomas J. Brown, and Donald Yacovone, eds., *Hope & Glory: Essays on the Legacy of the 54th Massachusetts Regiment* (Amherst: University of Massachusetts Press, 2001), 16.

serve as a sergeant in the 14th Rhode Island Colored Heavy Artillery in 1863.<sup>47</sup> The 1853 Colored National Convention anticipated the transformation that would be wrought on Northern black citizen-soldiers when it proclaimed: “*We are Americans*” who “*address you as American citizens* asserting their rights on their own native soil.”<sup>48</sup> Service in the Army confronting the problems of unequal pay and abusive treatment opened free blacks to charges of disloyalty rather like European ethnics. In an equally powerful way, Northern blacks returned the basis of their claims to soldier rights and the practice of self-government to their membership in the nation and their just inheritance of the country’s founding ideals.

Perhaps no group traversed a civic distance so great as the freedmen who joined the Union Army. They negotiated a place for themselves structured by their membership in the institution of slavery. Masters treated the enslaved as second-class children of an imagined household who received sustenance, but owed obedience and labor. At the same time, the enslaved created self-sustaining and mutually-supportive neighborhoods stretched across their immediate locale. Localism acted as a similarly powerful molder of community even though enslaved African-Americans never completely accepted their membership in the formal arrangements insisted on by the master class. While the most exceptional were slave revolts and maroon communities, they achieved more permanent gains by turning slavery’s labor arrangements to their advantage.

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<sup>47</sup> “A Meeting of the Colored Citizens of Providence,” *Weekly Anglo-African* (New York), 9 November 1859.

<sup>48</sup> Proceedings of the Colored National Convention held in Rochester, July 6th, 7th and 8th, 1853 (Rochester, NY: Offices of Frederick Douglass’ Paper, 1853), 8, emphasis added.

Rather, they found ways through degrees of confrontation to gain capricious protections and privileges from their overlords. In turn, they built their own artifice of rights—though nothing approaching the degree of self-government available to Northern free blacks. What developed within the peculiar institution’s internal economy was a precarious system of customary obligations, privileges, and prerogatives vis-à-vis the master. The enslaved used them to protect their fledgling dreams of freedom. Often over a span of decades a neighborhood of slaves won concessions from their master through confrontations over kin-based work parties, free time on weekends, and routines of paid labor. While these reciprocities rested on slaves’ membership in the fictive household, historian Steven Hahn argues such confrontations constituted nothing less than a “politics of slaves.” The freedman-soldier, therefore, came from a background where membership had a distinct meaning and it was the avenue to an ersatz version of rights, ones forming a launching pad for self-government through membership in the Army.<sup>49</sup>

Their legal status as soldiers conferred on them a wholly new form of membership and in turn protection of the rule of law and a grant of legal rights under the Articles of War. When these new rights were transgressed through flogging, for example, freedmen-soldiers drew upon their practice of confrontation and resistance to assert their

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<sup>49</sup> Eugene D. Genovese, *Roll, Jordan, Roll: The World the Slaves Made* (New York: Random House, 1974), 5-6, 306-07, 597-8, 620-1; Peter Kolchin, *American Slavery, 1619-1877*, rev. ed. (New York: Hill & Wang, 2003), 111-18; Steven Hahn, *A Nation Under Our Feet: Black Political Struggles in the Rural South from Slavery to the Great Migration* (Cambridge: Harvard University Press, 2003), 17-33, quote, 32; John W. Blassingame, *The Slave Community: Plantation Life in the Antebellum South*, rev. ed. (New York: Oxford University Press, 1979), 195-96; Anthony E. Kaye, *Joining Places: Slave Neighborhoods in the Old South* (Chapel Hill: University of North Carolina Press, 2007), 162, 187-88; Stephanie M. H. Camp, *Closer to Freedom: Enslaved Women and Everyday Resistance in the Plantation South* (Chapel Hill: The University of North Carolina Press, 2004), 1-4, 7-9. Solomon Northup, a free black from New York sold into slavery in Louisiana, averred that even the most ignorant and unschooled in the quarters possessed an “idea of freedom,” *Twelve Years a Slave* (Auburn, NY: Derby and Miller, 1853), 259-60.

possession and defense of soldier rights. By doing so, they expanded their rights as members of the new national community that they were themselves defining through their military service. This defining of new categories of rights was accomplished in part by the military protests of both freedmen-soldiers and Northern free blacks in uniform. Their joint efforts in turn forged a more robust membership in a nationwide racial community.

Chapters I and II relate the experience of Anglo soldiers who carried a culture of associational self-government into the Army and refused to completely part with it as they fought the war for Union. Along the way they retained their ties to their local communities and drew heavily upon the intervention of civilian allies in blunting the complete control by the national government and Army high command over the internal affairs of their local military community. Moreover, mutinies among them reveal a direct relationship between their handicapping of the Union's chances for victory and the preservation of self-government in their own regiments.

Chapter III presents the experience of free African Americans from Northern states in a new light by explaining their military protest actions not only in the context of the black freedom struggle but also as artifacts of associational culture. Northern black soldiers' endemic culture of antebellum dissent against racism, which also became a useful source of citizen advocacy during the war, turned their mutinies into battles over the larger civic implications of the soldier rights they could claim while under arms. Their use of Northern public culture and the structures of associationalism to justify their actions remain powerful evidence of their participation in Northern public culture



alongside Anglos. And in this respect Northern free blacks and white ethnic soldiers, particularly German Americans, had much in common.

In Chapters IV and V the remarkable transition from slavery to freedom is lent new power through the mutinies of recently emancipated slaves in uniform. Drawing on their struggles against the master class for customary rights as members of the plantation household, they entered the Army and gained a new status as soldiers who could claim a new deposit of legal rights under the rule of law. When they used mutinies to define and defend these soldier rights, the formerly enslaved demonstrated their fitness for self-government. At the same time, it committed them to seek their membership in the nation as a function of the rule of law that had first provided the structural framework for their soldier rights.

Finally, chapters VI and VII explain how the Union's ethnic soldiers used protest actions and mutinies to define their rights in uniform while remaining committed to the defense of their adopted nation. Much like their Anglo comrades they did it in cooperation with citizen partners at home. The networks of ethnic institutions endemic to the North's ethnic communities enhanced the impact of soldier protest on the Army high command and in the political arena. Ethnic soldiers' acts of protest in cooperation with the home front solidified their rights in uniform. Membership in their ethnic communities undergirded their membership in the national political community. Moreover, protest actions demonstrated ethnic soldiers' capacity for citizenship and formed a component of their claim to full participation in the nation once the war finished.

Individual and corporate rights belonged to Anglo, ethnic, and African American volunteers in the Union Army as a result of their soldier status. The initial character of that status depended on the diverse array of rights and membership possessed by the social groups within the political community of the United States from which these volunteers came. Mutinies reveal how soldiers at the local level of their regiments made the war into a struggle to secure the Union and self-government from erosion. Membership in the Army had expanded self-government to increased numbers of members of the nation and, by extension, revitalized the Republic.

CHAPTER II  
“NEVER MORE COMPLETELY DUPED”:  
MEMBERSHIP, SOLDIER RIGHTS, AND MUTINY  
IN THE ANDERSON CAVALRY

“Never more completely duped”: those were the words that Eb Allison, a sergeant in the “Anderson Cavalry,” used to explain the depressing circumstances in which he and his comrades found themselves a few days into 1863.<sup>1</sup> It was a result of his regiment’s mutiny that began on 26 December 1862. Orders had arrived to move to the front in support of the Union advance that would eventually culminate in the Battle of Stones River (31 December 1862–2 January 1863) or Murfreesboro, Tennessee. The regiment divided at its camp into an obedient contingent numbering about 300 men when it entered the battle on 29 December and a mutinous band of more than 400 that stacked its arms and refused to move. Major General William S. Rosecrans, commanding the Army of the Cumberland, tried inveigling and then threatening the mutineers to come to heel. To no avail. After the battle’s end, he imprisoned them in Nashville to await court-martial. But contrary to all expectations, the Anderson Cavalry reorganized in March and closed out the war intact and in good standing.

The mutiny of the Anderson Cavalry was a brand of military protest action by Anglo volunteers who charged the Army with betraying the founding and procedural rights belonging to them as members of a military association. When it became depressingly clear to many soldiers in the Cavalry by late December 1862 that these rights were in

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<sup>1</sup> Eb to Dear Parents and Brother, Camp near Nashville, 3 January 1863, Eb Allison Collection, Gibson Civil War Letters Collection, GLC03523.24 (#35), Gilder Lehrman Collection (hereafter GLC).

jeopardy—that they had been “duped”—their mutiny functioned as a popular constitutional salvage operation.

Their bid for control had a complex genesis and an equally meaningful denouement. This intricate nature has hindered its full appraisal.<sup>2</sup> Unraveling these threads, however, yields a useful microhistory that explains the relationship between soldier rights and associational membership under the pressure of the Federal war effort. The origins of the mutiny are found in a rivalry between two volunteer organizations with a common point of origin. The dual (and dueling) histories of the 1861 Anderson Troop and the 1862 Anderson Cavalry (officially the 15<sup>th</sup> Pennsylvania Cavalry Regiment) involved conflicts over membership, consolidation, commissions, and terms of service that identify the content and meaning of soldier rights for one population of Union Anglo volunteers. First, the soldiers of the 15<sup>th</sup> Pennsylvania saw their mutiny as a check against the machinations of outsiders from the Anderson Troop. Second, the mutineers directed a corollary vector of dissent at the Army’s institutional failure to guarantee these rights. The mutineers gained support for their actions from family and community allies in Pennsylvania who waged a joint public campaign to justify and explain the actions of their fellow citizens in uniform. In the mutiny of the 15th Pennsylvania Cavalry localism, associational culture, and soldier rights structured both a mutiny *against* Army authority and *between* the men themselves.

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<sup>2</sup> The mutiny’s most careful student, Stephen Z. Starr, *The Union Cavalry in the Civil War*, vol. 3, *The War in the West, 1861-1865* (Baton Rouge: Louisiana State University Press, 1985), 595–601, covers it in an appendix—itsself evidence that he thought it simply strange. Starr chalks it up to litigious, privileged recruits who were confused about their future due to in part to their commander’s capture. While not without merit, this confines analysis of the mutiny too narrowly to the questions of unit cohesion and military leadership.

Thus, the Anderson Cavalry's mutiny extends antebellum public culture into a most unlikely place: the authoritarian institution of the military. The priorities of military discipline and regimentation did not extinguish volunteers' deep commitment to the practices of citizenship they had learned from associational life. Military protest actions carried on modes of self-government during wartime. This mutiny is one of the most dramatic instances of the concrete ways in which wartime Anglo men acted like citizens *because* they were soldiers.

Finally, the Anderson Cavalry mutiny clarifies what "Union" meant for Anglo volunteers in the context of the larger war effort. Preserving their soldier rights through mutiny ensured they continued to have some say in the internal affairs of their regiment. For these citizen-soldiers their achievement, albeit within the interstices of the Articles of War, was a barometer to measure self-government's prospects in the Army and in the nation generally. Seeing their soldier rights tarnished locally ruptured their confidence that their service and sacrifice was indeed furthering the cause of Union and republican government. When they restored a healthy associationalism in their regiment their faith increased that victory would reestablish domestic tranquility and promote the general welfare for them and their communities upon returning home.

Anglo volunteers in blue had come of age in Northern public culture. They took their cues as soldiers from the antebellum tradition of citizen self-government within a volunteer military company. Pennsylvania law had made this practice a norm among its prewar militias. Companies were almost parochial in the depth of their attachments and

makeup. Years earlier during the compulsory service era, the State House still passed laws like this 1832 statute stipulating that,

The enrolled militia and volunteers attached to the seventeenth regiment...residing within the following bounds, shall hereafter compose a separate battalion...that is to say, the townships of Washington and Clinton, except that part of the latter north of the Bald Eagle mountain, and west of the Loyalsock Gap.<sup>3</sup>

Militias also enjoyed a fundamental right of local self-government through officer elections. The 1832 law observed that “the enrolled militia and volunteers of the battalion aforesaid, shall be entitled to elect one major, one adjutant, and one quarter master, for said battalion.” Local attachments ensured that militias had the right to abjure serving beside men not of their own choosing, such as the 1834 Pennsylvania law that empowered a regiment’s current officers to approve or deny any newly organized companies joining their regiment. It too mandated that officer elections be held.<sup>4</sup>

In 1849 the Pennsylvania legislature dispensed with the old enrolled militia in preference for a voluntary force along associational lines. Citizens eligible for militia service were to “form *themselves* into companies...and elect their own officers, make *their own* by-laws, regulate, collect, and apply *their own* fines and forfeitures.”<sup>5</sup> For example, the members of the National Blues of Portsmouth drafted detailed by-laws

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<sup>3</sup> Section VII, “A Further Supplement to the Act, Entitled ‘An Act for the Regulation the Militia of this Commonwealth,’” 4 May 1832, in John Purdon and George McDowell Stroud, comps., *A Digest of the Laws of Pennsylvania: From the Year 1700 to the 13th Day of October, 1840*, 6th ed. (Philadelphia: McCarty & Davis, 1841), 783.

<sup>4</sup> Section VII, “A Further Supplement to the Act, Entitled ‘An Act for the Regulation the Militia of this Commonwealth,’” 4 May 1832 and Section IV, “An Act for the Relief of Sundry Volunteer Companies,” 15 April 1834, *ibid.*, 783.

<sup>5</sup> Sections I and II, “An Act to Revise the Militia System and Provide for the Training of Such Only as Shall Be Uniformed,” 17 April 1849, emphasis added in James Dunlop, comp., *The General Laws of Pennsylvania from the Year 1700 to April 1849* (Philadelphia: T. & J.W. Johnson, 1849), 1199.

when they organized themselves in December 1851. What is more, they amended them in 1861 with a signed pledge to enter national service against the rebellion.<sup>6</sup>

Thus, Pennsylvania's Anglo volunteers came to the colors in 1861 with ingrained habits and expectations of associationalism within the confines of the military. But their tradition of carefully crafted cohorts failed to keep up with the demands of the war that arrived on 12 April 1861. In Pennsylvania only five volunteer companies existed to meet the crisis. President Abraham Lincoln's call three days later for 75,000 volunteers to national service, therefore, required improvised responses. Citizens' patriotic fervor and determination to defend the Constitution produced dramatic scenes of local volunteerism. In Lewistown the Logan Guards, which had drilled since 1858, had only twenty-six men to meet Governor James Curtin's 16 April orders to march immediately for Washington. Word spread so fast in the borough that eighty men volunteered on the spot within an hour. Most communities responded like the townships of Northhampton County whose citizens organized a public meeting two days before Lincoln's call. A number of speeches galvanized the attendees and by 18 April four companies of citizens in uniform had been accepted by the governor and were on the road to the state capitol at Harrisburg.<sup>7</sup>

Even in these hectic weeks, however, associational culture continued to shape Pennsylvanians' response to war. Take Norristown in Montgomery County. Volunteers expanded the existing militia regiment to six hundred men. Public resolutions

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<sup>6</sup> Papers and Constitution of the National Blues of Portsmouth, MS 0061, Box 3, Manuscript Group 7, Military Manuscripts Collection, 1758-1931, Pennsylvania State Archives, Harrisburg.

<sup>7</sup> Samuel Penniman Bates, *History of Pennsylvania Volunteers, 1861-5 Prepared in Compliance with Acts of the Legislature* (Harrisburg, PA: B. Singerly, State Printer, 1869), 1:3-5, 13

committing the community to provide for the families of enlistees encouraged the surge. The regiment stood below wartime strength, but the governor urged that it begin marching for Harrisburg. Additional Montgomery volunteers would be sent to join them at “Camp Curtin,” a hastily conceived troop rendezvous for companies from across the commonwealth. Keystone State officials anxious to move troops down to Washington determined that the regiment’s additional manpower would come from the available unattached companies. Following the 1834 law the officers approved these companies, then supervised new elections for officers. The results confirmed the existing leadership and had the effect of nominally, but quickly, knitting the regiment together.<sup>8</sup>

In Philadelphia—the state’s largest city, cultural heart, and transportation hub—attention focused in the first weeks on fears of a Confederate attack. Citizens pressured the city council into creating a volunteer Home Guard. At the same time, groups of citizens met publicly to fill up the depleted rosters of the city’s existing militia organizations or form new companies. By August of 1861, when William Jackson Palmer opened recruiting offices for the Anderson Troop on Chestnut Street, citizens were busily forming themselves into at least twenty-five different regiments.<sup>9</sup>

A brevet brigadier general of Union cavalry and Medal of Honor winner by war’s end, William Jackson Palmer was born into a Quaker farming family on 17 September 1836 in Kent County, Delaware. The family moved to Philadelphia in 1841 and in 1857 Palmer used his connections among the city’s prosperous Friends to earn the post of

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<sup>8</sup> Bates, *ibid.*, 1:40.

<sup>9</sup> J. Thomas Scharf and Thompson Westcott, *History of Philadelphia, 1609-1884* (Philadelphia: L. H. Everts & Co., 1884), 1:760–776.



personal assistant to J. Edgar Thomson, president of the Pennsylvania Railroad. But Palmer was also a budding abolitionist, organizing a lecture series for the city in 1859. He joined the Republican party and marched with other “Wide-Awakes” during the 1860 campaign. At the war’s outset he was assisting the national government to coordinate rail traffic between Washington, D.C., and Annapolis, Maryland.<sup>10</sup>

These early displays of zeal, ambition, and initiative foreshadowed Palmer’s decision to join the military crusade. Eager to enter the fray but sagacious enough to recognize his advantages over the typical volunteer, he organized his own company of cavalry in the autumn of 1861. He secured the approbation of Governor Curtin, Secretary of War Simon Cameron and the hero of Fort Sumter, Brigadier General Robert Anderson, at whose headquarters in Kentucky it would serve.

Palmer generated interest in the company by providing men of “influence” across the state with a copy of his “PLAN ‘The Anderson Troop’” as well as an explanatory cover letter. Palmer requested recipients of the letter to sponsor recruits who would “fairly represent the intelligence, respectability, and patriotic spirit of the young men of Penna [sic].”<sup>11</sup> Although no formal constitution and by-laws remain, these foundational documents are evidence that Palmer operated within the Pennsylvania tradition of voluntary soldiering and he had in mind the fundamental rights of the Troop’s members when he conceived it.

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<sup>10</sup> Brit A. Storey, “William Jackson Palmer: A Biography,” Ph.D. diss., University of Kentucky, 1968, passim; William Jackson Palmer, *Letters, 1853-1868*, ed. Isaac H. Clothier (Philadelphia: Ketterlinus, 1906), 119–128.

<sup>11</sup> Palmer, *Letters, 1853-1868*, 91-97.

The plan laid out the company's membership, its duties, and some of the soldiers' basic rights and obligations. Members were to be "young men of respectability" from across the State who had secured a letter of recommendation from a prominent man of their community and would hold themselves to a temperance pledge. The Troop would perform "special service" at the general's request such as reconnaissance, courier, and provost duty "*in addition* to service on the field of battle."<sup>12</sup> Recruits understood the promise of headquarters duty and elite status as a necessary condition of their service. According to Private William Blackburn's expectation, "One thing is certain we can not [*sic*] act in any other capacity than as an independent troop" or "we will return home for other service."<sup>13</sup>

Blackburn's presumed right of alienation—of rejecting association—if the volunteer's terms of service were violated was complemented by another of the Troop's soldier rights: a right of selection. Palmer used the letters of recommendation to ensure that the Troop's membership retained traditional features of kinship, community, and familiarity endemic to antebellum associational culture.<sup>14</sup> Word of mouth encouraged

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<sup>12</sup> Palmer, *ibid.*, 91-97.

<sup>13</sup> William Blackburn to Dear Earpie, 25 November 1861, Anderson Troop, William Blackburn Letters, Collection 22B Society Small Collection, Box 3, Historical Society of Pennsylvania, Philadelphia.

<sup>14</sup> For example James Watson Over, a law student in 1862 likely could have claimed a commission in typical volunteer regiments, but served as a private in the 15th Pennsylvania throughout the war, David Murdoch, "Allegheny County's Lawyer-Generals in the Civil War," Civil War Misc. Collection, USAMHI. In hindsight, Palmer admitted that many of these upstanding young citizens saw the Regiment as a more palatable and safe form of military service that they might have to perform anyway given the Militia Act of 17 July 1862's threat to draft another 300,000 nine-month men, Palmer, Introduction, draft "History of the 15th Pennsylvania Cavalry," Series II, David Allen Cronin Papers, NYHS. For a discussion of the threat of conscription in 1862 see James W. McPherson, *Battle Cry of Freedom: The Civil War Era* (New York: Oxford University Press, 1988), 491-94, 500.

prospects' friends and kin to seek sponsorship too.<sup>15</sup> Once the company was assembled the citizen-soldiers had an opportunity to exercise their right of selection. Palmer emphasized in the Troop's organic documents that "no member will be bound by his acceptance" into the Troop "until after he has seen his comrades, and *been mustered into service*."<sup>16</sup> Importantly, these rights adhered to their membership as soldiers in *this particular unit*. If they could not alienate themselves from membership when the terms of contract were violated then their service was not truly consensual. If they could not choose their comrades then their association was not truly free. At the same time, it is significant that Palmer added the caveat about muster-in. He recognized early on that any associational rights and privileges had to accommodate the demands of military law and Federal service. His soldiers' reluctance to make the same accommodation with the powers that be set the stage for the eventual mutiny.

The plan admitted to specific terms of service, foundational rights of alienation and selection, and finally procedural rights like election. General Anderson's acceptance of the Troop had hinged on his prerogative of selecting its commander (who turned out to be Palmer). In the plan, Palmer followed existing practice and stipulated that, "The remaining officers and non-commissioned officers to be elected by the Co. after it shall have been filled up." Those elections took place just before the Troop's muster-in to

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<sup>15</sup> Barnes to Palmer, 24 September 1861; Andrew Reeder, a former territorial governor of Kansas (but a Pennsylvania native), believed his son could imbue the Troop with "the education and training of a gentleman" and identified that "duty requires him to go" into military service, Reeder to Palmer, 30 September 1861; Covode to Palmer, 30 September 1861, all contained in MSS 477 William Jackson Palmer Papers, Box II, Folio 80, Colorado Historical Society, Denver (hereafter CHS).

<sup>16</sup> Palmer to "Dear Sir," Pennsylvania Rail Road Company, 24 September 1861, in Palmer, *Letters, 1853-1868*, 96. Emphasis added.

national service in December 1861. With its organization completed and the Troopers confident in their soldier rights, they headed west to Kentucky. By the time the company reached the Army of the Ohio's headquarters in Louisville, General Anderson had been replaced by Major General Don Carlos Buell who nevertheless ratified the company's role.<sup>17</sup>

The Troop performed sterling service for Buell at Louisville, Shiloh, Corinth and along the hamlets and roads in between. Service he so prized that on 18 July 1862 Buell requested War Department authority to raise a new *battalion* of "special service" headquarters cavalry. Palmer, assisted by twelve recruiters detailed from the Troop, was to raise three new companies of cavalry in Pennsylvania. After a period of rudimentary training they would be united in Tennessee with the original Anderson Troop. Buell expected Palmer to lead the new battalion as a major and its officers were to be veterans of the Troop—mostly from the recruiting party—appointed by Governor Curtin.<sup>18</sup>

The new recruits' preexisting convictions about membership and association generated rising levels of dissent between September and December 1862. Only gradually did the new recruits realize how their contorted relationship to the Anderson Troop deprived them of crucial soldier rights. And how, in turn, making sure those rights were honored eventually meant risking disciplinary action by the Union Army.

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<sup>17</sup> Thomas Maple, "Anderson Troop," in Charles H. Kirk, ed., *History of the Fifteenth Pennsylvania Volunteer Cavalry which Was Recruited and Known as the Anderson Cavalry in the Rebellion of 1861–1865* (Philadelphia: Society of the Fifteenth Pennsylvania Cavalry, 1906), 605–07.

<sup>18</sup> William Jackson Palmer, Introduction written c. 1904 for a draft "History of the 15th Pennsylvania Cavalry," Series II, David Allen Cronin Papers, NYHS; Kirk, ed., *History of Fifteenth Pennsylvania Cavalry*, 13–15. See the copy of Department of Ohio Special Order No. 111, 28 July 1862, that gave Palmer his recruiting authority in Maple, "Anderson Troop," in Kirk, ed., *History of Fifteenth Pennsylvania Cavalry*, 623, as well as Buell's plans for officers, 622.

Like the Troop before them, the members of the new Anderson Cavalry claimed a panoply of soldier rights *peculiar to their regiment* flowing from the *terms of service* under which they *voluntarily associated themselves*. This presupposition followed very naturally from the culture of volunteering 1) instantiated in public acts like Pennsylvania's law of 1849 and 2) adhered to in the organization of units to that point in the conflict. Reunited in Pennsylvania, Palmer and his fellow citizens "formed themselves" into self-governing companies. As he proposed terms and they assented, male citizen volunteers jointly put "their own by-laws" into operation.

As with the Troop, there was universal agreement among recruits to the Anderson Cavalry that they would be equipped, uniformed, and trained as cavalry serving directly at a general's headquarters for "independent," "special service."<sup>19</sup> Word that enlistment had entailed for this special unit garnered enormous interest in Pennsylvania.<sup>20</sup> Palmer stationed himself in Philadelphia while his recruiters fanned out across the state, rented offices in their home towns, and combed their kinship and professional networks for potential volunteers.<sup>21</sup> Sixteen year-old Eli Hewitt, from rural Greene County, followed

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<sup>19</sup> William Jackson Palmer, Introduction written c. 1904 for a draft "History of the 15th Pennsylvania Cavalry," Series II, David Allen Cronin Papers, NYHS; John F. Conaway, "Inception and Organization of the Regiment," in Charles H. Kirk, ed., *History of the Fifteenth Pennsylvania Volunteer Cavalry which Was Recruited and Known as the Anderson Cavalry in the Rebellion of 1861-1865* (Philadelphia: Society of the Fifteenth Pennsylvania Cavalry, 1906), 13-15.

<sup>20</sup> "The Anderson Troop," *Philadelphia Press*, 2 August 1862; "Anderson Troop," *Pennsylvania Daily Telegraph* (Harrisburg), 21 August 1862.

<sup>18</sup> "The recruiting officers from the Anderson Troop were stationed throughout the state at their hometowns, and naturally drew recruits from the circles in which they moved themselves, John F. Conaway, "The Inception and Organization of the Regiment," in Kirk, ed., *History of the Fifteenth Pennsylvania Cavalry*, 14.

his older brother Jacob into the Regiment, a recruiter from the Troop.<sup>22</sup> Paul Hersh reported to his brother that, “The Adams County boys are all together in one company.” So parochial were their attachments that they believed the county to “*have one* Comissioned officer, Capt. Lashell and three non Comissioned ones, Sergt. Geo Hildebrand, Petersburg, Corporal Geo. Shields, Gettysburg, and myself.”<sup>23</sup> Interested parties still had to furnish a recommendation of their fitness for membership. This produced recruits for the Cavalry whom George Fobes recalled as “well-connected, ambitious” young men with good “physique, intelligence and spirit.” In Palmer’s recollection they were a varied lot from “railroads, farms...law offices, stores and counting houses, machine shops...or but just out of school or college.”<sup>24</sup>

Enlistments of the kind outlined above flooded Palmer in the first weeks of August. In exasperation he prodded Buell on 10 August 1862 to secure authorization from the War Department for a full *regiment* of cavalry. At Carlisle Barracks, Pennsylvania on 22 August 1862 over 900 men mustered into Federal service for three years as the “Anderson Cavalry,” officially designated the 15<sup>th</sup> Pennsylvania Volunteer Cavalry

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<sup>19</sup> Obituary clippings for Jacob Randolph Hewitt and Eli Hewitt, Eli Hewitt Letters, Civil War Miscellaneous Collection, USAMHI.

<sup>23</sup> Paul Hersh to James Hersh, 12 October 1862, Carlisle, PA, “Camp Alabama,” Paul Hersh Letters, Civil War Miscellaneous Collection, USAMHI, emphasis added. When Lashell arrived home in Adams county to recruit new men to the battalion he was a sergeant in the Anderson Troop, “Adams County Volunteers,” *Republican Compiler* (Gettysburg, PA), 11 August 1862. Hersh hailed from New Oxford, Paul to James Hersh, 15 June 1864, Hersh Letters, USAMHI.

<sup>24</sup> George S. Fobes, “An Account of the Mutiny in the Anderson Cavalry, at Nashville, Tenn., Dec., 1862,” in *Leaves from a Trooper’s Diary* by John A. B. Williams (Philadelphia: self-published, 1869), 47; Palmer, Introduction, draft “History of 15th Pennsylvania Cavalry,” Series II, David Allen Cronin Papers, NYHS. The capsule biography for “Anthony Taylor,” *Encyclopædia of Contemporary Biography of Pennsylvania*, vol. 2 (New York: Atlantic Publishing and Engraving Company, 1890), 112, who was eventually promoted to Captain from the ranks notes he graduated from the Protestant Episcopal Academy in Philadelphia and had clerked at the large dry goods firm of John Farnum & Co. prior to his enlistment.

Regiment.<sup>25</sup> That total amounted to roughly 600 men beyond the numbers required for the battalion that Buell initially conceived.

No matter how many volunteers there were in 1862 to the new “Anderson Cavalry,” they prized their rights of alienation, selection, and election. George Fobes recalled that men joined the 15<sup>th</sup> Pennsylvania Cavalry because they abhorred “forced association” with lesser classes.<sup>26</sup> Eb Allison, a lawyer’s son from Pittsburgh, commented favorably that almost all the men in the Regiment were “gentlemen.”<sup>27</sup> These sentiments reflect the fact that the new men were recruited along the same basis and with the same service expectations as the 1861 volunteers who enlisted them. In their efforts to reel in enlistments, the recruiters likely would have catalogued the Troop’s soldier rights for any potential comrades.

And there is good evidence as well in the statements of soldiers in the Cavalry at the time of the December mutiny. At its height, a mutineers’ petition alerted Secretary

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<sup>25</sup> Colonel James B. Fry, Headquarters, Army of the Ohio, Huntsville, AL, 16 August 1862, to Captain William Jackson Palmer, Anderson Cavalry, Philadelphia, PA, *War of the Rebellion: A Compilation of the Official Records of the Union and Confederate Armies*, 128 vols. (Washington, D.C.: Government Printing Office, 1886), I, XVI, 2, 348–49, provided the enabling order to recruit the full regiment; John F. Conaway, “The Inception and Organization of the Regiment,” in Kirk, ed., *History of the Fifteenth Pennsylvania Cavalry*, 14; William McGee to Charles H. Kirk, [n.d.], reminiscence on Antietam and Palmer, Introduction, both in a draft “History of the 15th Pennsylvania Cavalry,” Series II, David Allen Cronin Papers, NYHS; Paul to James Hersh, 12 October 1862, Carlisle, Pennsylvania, Hersh Letters, USAMHI; Maple, “Anderson Troop,” in Kirk, ed., *History of Fifteenth Pennsylvania Cavalry*, 622–23. Recruits also received a \$27 state bounty and Philadelphians a \$50 city bounty as well, Sergeant Charles M. Betts, 15th Pennsylvania Cavalry, entries for 7 September, 16 October 1862, “Memos from Diary, 1862-1865,” Charles M. Betts Papers, HSP.

<sup>26</sup> Fobes, “An Account of the Mutiny in the Anderson Cavalry,” 79. Specifically, Fobes classified this undesirable element as “a class that frequently composed our eastern regiments” which resulted in the Regiment containing recruits “the like of which...never before entered into the composition of an army.”

<sup>27</sup> Eb to Brother, Aug. 27th, 1862, Camp Alabama, Carlisle, Pennsylvania, Eb Allison Collection, Gibson Civil War Letters Collection, GLC03523.24, Gilder Lehrman Collection, New York. Demographic information drawn from letters 24.5 and 24.40 in the collection.

Stanton that “promises were made by the recruiting officer in charge that, should we not be assigned to the service for which we were enlisted, we should at once *receive our discharge*.” They continued that they had also been “deprived of the privilege of selecting our own officers.”<sup>28</sup> Both units appear to have been firmly convinced that they could nullify their membership if the terms of service were violated. And they both claimed, as a matter of membership, to have a say in their tent mates and in their leaders.

As soon as they arrived at Carlisle, however, their rights of membership generated serious problems with the reality of their military association—what they often referred to as their “organization.” Enormous confusion entailed about the unit’s size, due ironically to Palmer’s successful recruiting techniques. Expanding the Cavalry from a battalion to a regiment ran counter to the expectations of the earliest 1862 recruits. Septimus Knight maintained Palmer had enlisted him into “a Battallion [*sic*] of men.”<sup>29</sup> Another incredulous volunteer on arriving at “Camp Alabama” in Carlisle explained that, “When *I* enlisted it was in a *Battalion*...the Battalion or Troop not to exceed Four hundred men” and “I find *all* the men here enlisted under the same impression.” Realization that his organization might be unraveling before it began left the soldier dismayed. “I was completely surprised at the number of men in camp...I do not

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<sup>28</sup> Petition of W. D. H. Reeder, et al. to Secretary of War Edwin M. Stanton, 31 December 1862, *OR*, I, XX, 2: 367. The *OR* notes that 535 additional names were inscribed on the original petition.

<sup>29</sup> Septimus Knight Diary, 21 August 1862, MS 317, Virginia Military Institute Archives, Lexington (hereafter VMI).



understand this.”<sup>30</sup> A mutineers’ petition in January 1863 alluded to the soldiers’ concern for their rights to clear terms of service when it cited the widespread fear that “they were not to be used *as specified* when enlisted.”<sup>31</sup> Shock and deflation of expectations about the size of the Cavalry was only the first and most obvious attack on members’ rights.

Other volunteers experienced threats to their right of selection. Along with gathering men from specific towns and districts, some recruiters had led them to believe they would serve in the same company.<sup>32</sup> Pennsylvania law sanctioned this practice and it constituted the ordinary mode of organization among volunteers. The expansion of the battalion into a regiment appeared to threaten these expected terms and from their point of view grossly infringed on the soldiers’ right of selection. According to an anonymous cavalryman, “I am not satisfied with the way things are going. I enlist in a certain company and a Battalion. I am deceived in each.”<sup>33</sup> On the day of the Cavalry’s conversion to a regiment, a recruiter startled Eb Allison with the news that his company of Pittsburghers would be “disorganized” and the Cavalry “reorganized entirely in the new....in such *direct conflict* with the understanding which we had had.” Allison

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<sup>30</sup> Anonymous, diary entry, 26 August 1862, emphasis added, 15<sup>th</sup> Pennsylvania Cavalry Regiment Collection, Carlisle Barracks Collection, USAMHI.

<sup>31</sup> Petition endorsed by M. Cooper Paul, Oscar B. Morris, Harry M. Geary, Walter G. Wilson, and Wilfred Keeley [members of the Anderson Cavalry] to “Reverend Alexander McCauley, chairman, and others, committee of the citizens of Philadelphia deputed to inquire into the condition of the Anderson Cavalry,” 10 January 1863, Nashville, Tennessee, *OR*, I, XX, 2: 368-69

<sup>29</sup> Anonymous to “Dear Father,” 31 August 1862, Camp Alabama [Carlisle, PA], 15<sup>th</sup> Pennsylvania Cavalry Regiment Collection, Carlisle Barracks Collection, USAMHI; John F. Conaway, “The Inception and Organization of the Regiment,” in Kirk, ed., *History of the Fifteenth Pennsylvania Cavalry*, 14, states that the regiment “represented over thirty counties in the State, with the majority coming from Philadelphia and Allegheny.”

<sup>33</sup> Anonymous, diary entry, 30 August 1862, 15<sup>th</sup> Pennsylvania Cavalry Regiment Collection, Carlisle Barracks Collection, USAMHI.

decided “to inquire further into the matter *before* being sworn into the service of the Government.” Luckily for him and his associates, their sponsor secured Palmer’s assurance that they could safely muster in and then transfer to their original company.<sup>34</sup>

Allison’s experience is good evidence that recruits to the 15<sup>th</sup> Pennsylvania Cavalry, like those to the Troop before them, believed they too possessed a right to choose with whom they served. His determination to clarify his “understanding” before mustering-in exactly conforms with the right of selection that Palmer sanctioned for his 1861 recruits. The right of selection in this context also underscores that soldier rights were not only wielded individually but corporately. Allison wrote of the “understanding which *we* had” about forming themselves into a company from their home city. Finally, this episode also demonstrates the close connections between soldier rights and soldiers’ home communities. Allison’s response to the change in organization echoes William Blackburn’s earlier threat to quit the Troop if it did not serve independently. Both soldiers bolstered their rights to selection and alienation by relying on their connections to home. Therefore, the petitions, open letters, and public meetings that would characterize the December mutiny grew organically out of the relationship between soldiers, their rights, and their home communities.

Unanswered questions about the Cavalry’s size created a number of command problems. The new recruits wondered what should be its quotient of officers, who those officers would be, and how they would be selected. Each of those questions implicated

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<sup>31</sup> Eb Allison to Dear Brother, 22 August 1862, Harrisburg, Pennsylvania, Eb Allison Collection, Gibson Civil War Letters Collection, GLC03523.24 (#5), GLC, emphasis added. According to Allison, Palmer later explained that the recruiter was wrongly informed.

the Troop to some degree. It should first be observed that Palmer had grown completely opposed to officer elections by this time; already exultant in January 1862 that, “The business of men electing their officers has been wisely stopped in most of the states.”<sup>35</sup> Buell and Palmer’s plans for officers in the new organization, therefore, should come as no surprise. The 1862 enlistees had at best “a general understanding” of this. The Regiment’s first company was designated “B” because, they had been told, the Troop would become Company “A.”<sup>36</sup> Some of the the old unit (particularly the erstwhile recruiters) would also be a cadre of officers for the proposed battalion. In fact, one soldier reported from Carlisle in August that, “Some of the old Troop are acting as officers in some of the Companys [*sic*],” but in an ominous foreshadowing of the Cavalry’s grievances about securing a full complement of officers he added, “no one seems to have command of this company.”<sup>37</sup> In a further blow to rights of election, Palmer informed the new men on 22 August that he would “appoint” non-commissioned officers based on merit and only then “several Lieutenants will be chosen from the number” once they reached Louisville and General Buell’s headquarters.<sup>38</sup>

These arrangements contradicted volunteers’ sense of their foundational rights. It transgressed their rights of selection and election within their own organization. Preserving the distinct character of the Cavalry respected the rule of law. The Regiment,

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<sup>32</sup> William Jackson Palmer, Camp Fry, Louisville, KY, 30 January 1862, to Frederick H. Jackson, in MSS 477 William Jackson Palmer Papers, Box III, Folio 183, CHS.

<sup>33</sup> Fobes, “An Account of the Mutiny in the Anderson Cavalry,” 80, 82.

<sup>37</sup> Anonymous, “Camp Alabama,” Carlisle, PA, 28 August 1862, to “Dear Mother,” 15th Pennsylvania Cavalry Regiment Collection, Carlisle Barracks Collection, USAMHI.

<sup>38</sup> 22 August 1862, Vol. 1, William F. Colton Diaries, Coll. 10246, HSP.

not the Troop, was their object of membership. Electing officers from amongst themselves protected the members' authority over their own affairs. Selection and election were mutually supporting pillars for self-government. Both of these founding rights continued local control and popular sovereignty within the military association.

As time went on, the Troop became a focal point for three grievances on the part of the 15th Pennsylvania Cavalry: that it lacked the proper complement of officers; that Palmer should rectify this through elections from within the Regiment; and that once properly organized it should assume its promised role as headquarters escort to General Buell and replace the Troop.<sup>39</sup> The new recruits became convinced that the Regiment had to take precedence over the Troop. Worse still, in the Cavalry's view, the Troop enjoyed an unfair advantage because it continued to serve in its original capacity as Buell's bodyguard. It could lobby for its position with the general while the men of the Cavalry had no such leverage.

With these conflicting circumstances of service ongoing, Robert E. Lee's invasion of Maryland interrupted the completion of the Cavalry's organization and in the process robbed it of Palmer, its guiding, visionary leader. The question of officers thrust to the fore when a detachment of the Regiment was ordered to patrol the Pennsylvania border during the Antietam Campaign. In the course of their reconnaissance and scouting duties Palmer was captured in the battle's aftermath and the regiment had to complete its organization at Camp Carlisle without him.

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<sup>36</sup> Fobes, "An Account of the Mutiny", 81.

Palmer's capture had profound consequences. Numerous dispositions about the Regiment's organization remained unfinished, despite his assurance just prior to Antietam that the Cavalry still retained its designation as General Buell's body guard. In his absence volunteers' anxieties about their soldier rights proliferated. These concerns accumulated unresolved, grew into grievances, generated suspicion, and gave birth to rumors. Shortly after the Regiment reunited at Carlisle in the wake of the Confederate withdrawal from Maryland, their own governor trampled the volunteers' rights of selection and election. Because of Palmer's capture at Antietam and acting Lieutenant Colonel William Spencer's continuing illness, Governor Curtin appointed Sergeant Frank Ward of the Troop as a temporary captain in the Regiment with instructions to submit ten additional names for commissions—less than one-third of the regiment's paper complement. It should come as no surprise that Ward selected from among his fellow recruiters. And some non-commissioned appointments appear to have been made at this time on the basis of personal connections, rather than merit as Palmer had promised earlier.<sup>40</sup>

The continuing discrepancy between expectations and reality became increasingly unbearable for the volunteers of 1862. The confusion between September and December 1862 about the status of their corporate and individual rights in uniform centered on the lack of officers and in turn, their disgust at being led by men forced upon them. They

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<sup>40</sup> Palmer's order is referenced in the petition by Paul, et al., *OR*, I, XX, 2: 368-69; Maple, "Anderson Troop," in Kirk, ed., *History of the Fifteenth Pennsylvania Cavalry*, 616-17; Fobes, "An Account of the Mutiny in the Anderson Cavalry", 82; Paul Hersh to James Hersh, 12 October 1862, Carlisle, Pennsylvania, Hersh Letters, USAMHI.

also grew more convinced with time that the Regiment's unjust organization might necessitate acting on their right of alienation.

Changes in command at higher levels soon exacerbated conditions in the Regiment. Buell blunted a Confederate invasion of Kentucky at the Battle of Perryville on 8 October 1862, but refused to invade eastern Tennessee as President Lincoln desired. On 30 October Lincoln turned over Buell's command, now renamed the Army of the Cumberland, to Major General William S. Rosecrans. Some of Rosecrans's first correspondence with the Army's general-in-chief, Major General Henry W. Halleck, pertained specifically to the 15<sup>th</sup> Pennsylvania. Unwittingly, Rosecrans did the most to inflame fears in the Regiment that its promise of "special service" would be revoked. When he reorganized the Army of the Cumberland he placed the 15<sup>th</sup> Pennsylvania Cavalry in the reserve of his newly formed cavalry corps commanded by Brigadier General David S. Stanley. For the time being the Troop remained as his headquarters escort.<sup>41</sup> On 2 November Halleck ordered the 15<sup>th</sup> Pennsylvania Cavalry to move to Nashville via Louisville, Kentucky, where they would receive their full complement of horses.<sup>42</sup>

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<sup>41</sup> *OR*, I, XX, 2: 174, 182; Peter Cozzens, *No Better Place to Die: The Battle of Stones River* (Champaign: University of Illinois Press, 1989), 226–27.

<sup>42</sup> McPherson, *Battle Cry of Freedom*, 520–22; Russell F. Weigley, *A Great Civil War: A Military and Political History, 1861–1865* (Bloomington: Indiana University Press, 2000), 195–96; "We must have cavalry...and a capable division commander. If possible send me [Brigadier General David S.] Stanley," Rosecrans to Halleck, Bowling Green, Kentucky, 2 November 1862, *OR*, I, XX, 2: 5; "My cavalry are the eyes and feet of my army, and will be its providers," Rosecrans to Halleck, Bowling Green, Kentucky, 4 November 1863, *OR*, I, XX, 2: 9. The Cavalry Division concentrated the Army of the Cumberland's mounted forces and turned them into an operational force Rosecrans could employ for screening, scouting, and flank protection. On Rosecrans's reorganization of the cavalry see, Larry J. Daniel, *Days of Glory: The Army of the Cumberland, 1861–1865* (Baton Rouge: Louisiana State University Press, 2004), 181–90; Cozzens, *No Better Place to Die*, 14–28, 226–27.

Thus, a little over two months after their muster into Federal service, the members of the 15th Pennsylvania Cavalry Regiment could claim no part in the election of their officers; men who came instead from an entirely separate organization. The size and composition of the Regiment had changed before their eyes since recruitment. The fate of their organization and their attendant rights continued to be twisted by the existence of the Troop—over which they also had no control. Already, their fortunes and futures were in the hands of distant officials—governors, generals, cabinet officials—over whom they could exert no restraint or influence. Now they had been ordered to leave home with no assurance that the role promised them at muster-in would be maintained.

While many soldiers, men like William Colton, doubtless greeted orders for their move west as “glorious news,”<sup>43</sup> the most paranoid soldiers seized on word that Buell had been sacked to argue that the terms of service promising them headquarters escort duty had been voided. Sure that this time they had been duped, they submitted a petition to the sickly Lieutenant Colonel Spencer prior to their departure for Kentucky, around 6 November 1862. They demanded the Army dissolve the Cavalry without delay “in justice to us.”<sup>44</sup> Prescient about Rosecrans's different plans for them, this would not be the last time that their right of alienation would prompt the disobedience of orders. But the Army had violated their service terms at the same time that it condoned the continued outsized influence of the Troop.

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<sup>43</sup> William Colton, 7 November 1862, William F. Colton Diary, HSP.

<sup>44</sup> An intimation of the Carlisle petition's contents is found in the Paul, et al. petition, *OR*, I, XX, 2: 369, a mutineers' *apologia* created in January 1863. No doubt the events leading up to the mutiny are being couched to justify it. Yet, the mutineers' catalogue of grievances therein necessarily relied on the collective memory of affronts to their rights prior to the December mutiny. It is a reliable testament, therefore, to the attitudes preceding the protest at Nashville.

Convinced of the need to answer his soldiers' criticisms, Frank Ward issued a special order to the entire Regiment asserting (without sanction) that their organization's future remained secure. Governor Curtin had elevated him to a provisional major's rank in September. Now second-in-command, he stepped forward to act for the debilitated Spencer. His order reaffirmed the 15<sup>th</sup> Pennsylvania Cavalry's permanent attachment to General Rosecrans's headquarters, performance of special service as promised, and a full complement of officers determined after arrival in Louisville. Their concerns about election remained unresolved, but Ward's show of leadership eased their worries. For the moment, the men reneged and agreed to embark for the West. Yet, they understood their choice as at best a decision to "forego any decisive action to attain our just rights at this time." Continued service was contingent "according to the promises made."<sup>45</sup>

The Regiment arrived in the Bluegrass State on 11 November,<sup>46</sup> expecting to be welcomed by enough officers to complete their organization. Unfortunately, only Sergeant Adolph G. Rosengarten, also holding a temporary major's commission in the Cavalry, stood on the platform. Upon inquiry, neither the Army nor their governor seemed to have any plans to commission additional officers from within the Regiment to bring it to full strength. The regiment's acting quartermaster reported that not even

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<sup>45</sup> Septimus Knight relates in his diary for August and September 1862 that "our Majors are named Rosengarten and Ward," Knight Diary, VMI. On the Carlisle petition, see again M. Cooper Paul, et al. petition, *OR*, I, XX, 2: 369. Charles Weller corroborates the petitioners about Ward's promises, Weller to "Dear Kate," 18 January 1863, Charles F. Weller Letters, Civil War Miscellaneous Collection, USAMHI. The regiment had reviled on the morning of 7 November 1862 and boarded a first-class train for Pittsburgh at four in the afternoon which arrived that evening. Quickly transferred to a train bound for Indianapolis, they arrived there at midnight on 9 November. From Indianapolis they travelled by train to Louisville, Charles F. Weller to "Dear Kate," 13 November, 19 December 1862, Weller Letters, USAMHI.

<sup>46</sup> William Colton gives the date of arrival, 11 November 1862, William F. Colton Diary, HSP; Septimus Knight, entry for "October November and December," 1862, Knight Diary, VMI.



Pennsylvania's adjutant general "knew whether we belonged to the State or to the General Government."<sup>47</sup> At that moment, no competent authority could guarantee the protection of these citizens' individual and corporate rights directly connected to their status as soldiers.

The situation was so precarious that Septimus Knight remarked at the time, only "two or three commissioned officers" were on duty with the Regiment.<sup>48</sup> An inspection of the lists of officers in the 15<sup>th</sup> Pennsylvania Cavalry prior to the mutiny indicates he had good reasons for his perception. Its colonel languished in a Confederate prison and its lieutenant colonel in a sick bed. That left two majors and the adjutant on the regimental staff. Another thirteen recruiters from the Troop comprised the company officers. On paper a Union cavalry company in 1862 had three commissioned officers: a captain and two lieutenants. In the 15<sup>th</sup> Pennsylvania Cavalry—a regiment that had not seen heavy combat—*no* companies had their full complement of officers. Only five had a captain. Of its eleven companies, four had two officers, five had only a single officer, and two had *none*.<sup>49</sup> One of the bereft was Knight's Company D. Reconstructing the insufficiency of the Cavalry's officer corps contextualizes Knight's shocking statement, but also speaks to its genuine disorganization. The distribution of officers crystalized for

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<sup>47</sup> Septimus Knight, entry for "October November and December," 1862, Knight Diary, VMI; Brit A. Storey, "William Jackson Palmer," (PhD diss., University of Kentucky, 1970), 86; Fobes, "An Account of the Mutiny," 78-80, 82.

<sup>48</sup> William Colton gives the date of arrival, 11 November 1862, William F. Colton Diary, HSP; Septimus Knight, entry for "October November and December," 1862, Knight Diary, VMI.

<sup>49</sup> Bates, *History of Pennsylvania Volunteers, 1861-5*, 899-901. By the New Year, there were twelve line, seven staff, and about two-thirds of the non-commissioned officers, Charles Betts, John S. Bourne, William Cowan, "Statement of Grievances," Co. E., 15<sup>th</sup> Pennsylvania Cavalry, 7 January 1863, Charles M. Betts Papers, 1862-64, Coll. 1889, HSP.

the soldiers their conviction that the Regiment had lost its self-governing character and was at the same time incapable of military operations. Certainly in their view, if whoever was in charge of them (be that the Army or the state of Pennsylvania) had allowed them to simply elect officers from among themselves, all would have been well. Instead, their entire endeavor at uniformed service in defense of a self-governing Republic had been undermined by “roguery;” the Regiment was not even “properly organized and officered after reaching Louisville.”<sup>50</sup>

These signs of neglect and manipulation made Louisville the scene of another “rumpus”<sup>51</sup> when more soldiers suspected that Rosecrans intended to move the Cavalry from headquarters to the field. “A large percentage” of them refused to proceed southward, believing it “our duty” instead to “demand our rights.”<sup>52</sup> When formally “ordered to Nashville” these men “refused to go until that previous order was complied with,”<sup>53</sup> namely Ward’s promise of final organization. Nearly five hundred men served another petition to Lieutenant Colonel Spencer. Citing Ward’s imprudent assurances, they demanded to be fully officered or else disbanded. In addition, “about fifty or one hundred soldiers” performed a “demonstration of disorganization” when they “swore to Major Ward and others...that they would not go any farther with the regiment, and then

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<sup>50</sup> Milton E. Shaw to “Dear Cos,” 16 March 1863, Milton E. Shaw Letters, CWTI Collection, USAMHI.

<sup>51</sup> Septimus Knight, entry for “October November and December,” 1862, Knight Diary, VMI.

<sup>52</sup> A description of the events at Louisville is related in the Paul, et al. petition, *OR*, I, XX, 2: 369.

<sup>53</sup> Charles Weller to “Dear Kate,” 18 January 1863, Weller Letters, USAMHI.

cheered! Several of them made their word good by not only remaining in Louisville when we left that place, but returned to their homes!”<sup>54</sup>

The Louisville rumpus revealed how much faith in regimental self-government had been lost. The very idea of temporary officers from the Troop had become intolerable while at the same time emblematic of the erosion of soldier rights. Men found themselves taking orders from fellows whom they had not elected nor even chosen to serve alongside. The Troopers assumed the Regiment “was their exclusive property by virtue of their belonging to the body-guard.” Even Troopers on leave from Nashville were “invested by their friends with the authority” to act as officers of the day. The 1862 volunteers “looked upon this *appropriation* of themselves with no great meekness” and they “began at length to feel that they had been enlisted not for the good of the service, but for the purpose of furnishing commissions to a body of men who looked upon them as their *aristocratic right*.” Rather than avoiding “forced association” as they had hoped, the Cavalry’s members had been lured right into it. The entire phenomenon of making the Troopers into officers for the Regiment had turned into an “unauthorized handing over of a regiment bodily to privates of another organization.”<sup>55</sup>

In the view of men from the Cavalry, control and supervision over the regiment rightly belonged to them. They were consensual members whose status granted them these founding and procedural rights. These rights had been established by Pennsylvania

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<sup>54</sup> Eb Allison to Dear Brother, Camp near Murfreesboro, TN, 4 March 1863, Eb Allison Collection, Gibson Civil War Letters Collection, GLC03523.24.45, GLC.

<sup>55</sup> Fobes, “An Account of the Mutiny,” 79, 81, 86, emphases added. When speaking specifically about the men from the original Anderson Troop I have adopted the term “Trooper” in order draw a distinction with regards to the men from the Anderson Cavalry.

law and common practice in the years before the war. The state's first Civil War regiments had been organized along the same lines. Most importantly, the 1862 volunteers had been assured by their recruiters of their specific soldier rights as members of the Anderson Cavalry. Unjust authority sapped the regiment's morale and inflamed belief that governance of their free association seemed to be slipping away. The gradual erosion of their soldier rights, hardly arrested by the two petition campaigns, must be judged a necessary yet not sufficient cause of the mutiny in December.

In that light, these early petitions were the first shoots of the popular constitutional actions that climaxed in the mutiny of December 1862. First, the men of the regiment demonstrated a clear commitment to associationalism. The regiment's corporate rights and their individual soldier rights were meant to be a brake on centralized power of any kind. The regiment's organization, destination, and deployment were *their* concern. Their status as soldiers invested them with rights to establish self-government. When it broke down, protest actions tried to repair any breeches and remind authorities of the people's role in opposing tyranny.

From these convictions flowed the petitions' second purpose: they initiated a challenge by the Regiment's members to Army and civil officials over the boundaries between military necessity and citizen self-government. In November 1862, citizens in the 15<sup>th</sup> Pennsylvania Cavalry offered a strict interpretation of their responsibilities to the Union war effort. They refused to accept officers imposed from outside and they demanded the Regiment serve at headquarters as promised. These soldier rights should not be compromised merely to expedite the policies and plans of their governor, their

commanding general, or the secretary of war. By Christmastime a majority of the men in the Anderson Cavalry believed only the extreme protest action of mutiny could restore the proper measure of control over their lives in uniform.

As surprising as it might seem, Lieutenant Colonel Spencer's promise that Rosecrans could be depended on to resolve the regiment's difficulties got the 15<sup>th</sup> Pennsylvania Cavalry to Nashville by 24 December 1862 without further incident during a two-week ride from Louisville.<sup>56</sup> Still, a potent mixture of fears about the Regiment's integrity, worries about who would lead them, and whether they would be coerced into duty different than their terms of service kept their anxieties alive on the way to Tennessee. Those worries did not abate upon reaching the "Athens of the South."

Scuttlebutt suggested an imminent battle and added to the urgency of solving the Cavalry's predicament. On Christmas Day, therefore, a committee "representing every company in the regiment" confronted Spencer and intended to hold him to his pledge. The prospect of combat demanded that sufficient officers, preferably from within the Regiment, be provided. Private Lancaster Thomas reported the soldiers "were not satisfied with the officers." Sergeant Eben Allison identified the lack of officers as the "chief" cause of all the Regiment's troubles. Sergeant Septimus Knight went even further and cited the volunteers' "demands in regards to *proper* officers being

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<sup>56</sup> Septimus Knight, "November and December 1862," Knight Diary, VMI; John A. B. Williams, *Leaves from a Trooper's Diary*, 21-29, 32.

commissioned” for the 15<sup>th</sup> Pennsylvania Cavalry, “*instead of men out of the old Anderson Troop.*”<sup>57</sup>

Despite efforts to organize the Regiment on their terms, military events proceeded apace. The expected orders appeared the day after Christmas—reconnaissance duty in advance of Rosecrans’s movement against the Confederate Army of Tennessee around Murfreesboro—unaccompanied by additional officers. A moment of decision was at hand. Public meetings, akin to those in which Pennsylvanians had first organized the 1861 regiments, occurred in every company. Friends of the Cavalry back home would hold similar gatherings in January and February 1863 to organize civic action on the mutineers’ behalf. These kinds of political actions were possible because of a regimental camp’s structure and appearance defined by the regulations that in turn structured the place, timing, and nature of officer-soldier interaction. Soldiers’ living quarters, although set apart from one another, were connected by “streets” running alongside the rows of each company’s tents that facilitated the interchange of officers and men. These streets permitted officers to easily move about the camp and observe the activities of their soldiers. They also permitted the soldiers to congregate with one another in prayer meetings, games of chance, letter writing and reading, and common fellowship. Finally, the company streets permitted avenues of access for soldiers to their officers when it was

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<sup>57</sup> Petition of the Anderson Cavalry to Major Neria H. Davis, Assistant Inspector-General, U.S. Army, 26 January 1863 (hereafter “Anderson Cavalry petition”), *OR*, I, XX, 2: 354; Lancaster Thomas to “Dear Sister,” 4 January 1863, Lancaster Thomas Letters, Civil War Miscellaneous Collection, USAMHI; Eb Allison to Dear Brother, Camp near Murfreesboro, Tennessee, 4 March 1863, Eb Allison Collection, Gibson Civil War Letters Collection, GLC03523.24.45, GLC. Thomas S. Maple, “Anderson Troop,” in Kirk, *History of Fifteenth Pennsylvania Cavalry*, 619, echoes Allison’s emphasis on the issue of commissions for the Cavalry. Septimus Knight, 26 December 1862, Knight Diary, VMI, emphasis added.

necessary to make routine reports, request the replacement of issued equipment, or even bring complaints against another soldier or officer.<sup>58</sup>

The most visually prominent space when looking at any camp diagram is the large open area of the parade ground. Here was the place of the closest, most regular, and most regimented contact between soldiers and officers. It was also the literal public square for a regiment. For it was here that the regiment assembled for the reading of general and special orders, for inspection by their brigade commander, for the award of meritorious conduct medals, and the reading of unit citations. It was also a place of punishment. Drunks would be publicly shamed standing at attention wearing a board stating their misdeed. Insubordinate soldiers would be made to march with full pack or be bucked and on display for the entire regiment to witness. At its most grave, the parade ground could serve as the site of public execution for soldiers convicted of capital crimes in the sight of all officers and men.<sup>59</sup>

The layout of camps and the way they directed human interaction had many functional similarities to those of antebellum cities. Hundreds of side streets and alleys fed pedestrians, carts, and wagons onto major arteries like Broadway in New York City or Canal Street in New Orleans. Once there citizens took part in commerce, entertainment, and politics. The city streets at once united them and highlighted their eclecticism. Military camps, like the urban centers, became stages on which citizens (in

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<sup>58</sup> United States War Department, *Revised United States Army Regulations of 1861 with an Appendix Containing the Changes and Laws Affecting Army Regulations And Articles Of War to 25 June 25 1863* (Washington, D.C.: U.S. Government Printing Office, 1863), Thirty-Fifth Article of War; Keith P. Wilson, *Campfires of Freedom: The Camp Life of Black Soldiers during the Civil War* (Kent, OH: Kent State University Press, 2002), 7, 13-14.

<sup>59</sup> Wilson, *Campfires of Freedom*, 10.

uniform) defined the boundaries of self-government. America's antebellum streets routinely witnessed raucous, vexed confrontations between urban dwellers hailing from different classes, neighborhoods, races, and genders; each one staked their claim to personal independence through use of the street. City streets also served as the thoroughfares for parades and marches. Most antebellum cities also featured a central open-air gathering place quite similar in function to the parade ground. These became citizens' "public arenas in which popular sovereignty could be exercised."<sup>60</sup>

John Tweedale, who won a Medal of Honor at Murfreesboro, left an account of the civic proceedings in Company B. "I was marching up and down my [guard] post" when "I saw the men in the company streets stacking their arms." Inquiring of the officer of the guard, "he said the men had refused to march, and he said we had better settle that in our companies." Although it violated the Articles of War, they left their guard stations, returned to camp, "went to our several messes and took a vote." In Tweedale's mess "five decided to go into the fight and one to stay with the command in Nashville."<sup>61</sup> In other companies the process was the same. William Colton in Company C noted that he and all five of his messmates voted by majority to obey orders.<sup>62</sup>

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<sup>60</sup> Mary P. Ryan, *Civic Wars: Democracy and Public Life in the American City during the Nineteenth Century* (Berkeley: University of California Press, 1997), 31, 40.

<sup>61</sup> Testimony of John Tweedale, "Records of the Rebellion," Report no. 4153 (1889): 31, Hearing of the Subcommittee Appointed to Ascertain Whether Unofficial Matter Has Been Introduced into Part 2, Volume 20, of the *Records of the Rebellion*, Committee on Military Affairs, House of Representatives, 50th Congress, 2nd Session (hereafter "Records of the Rebellion").

<sup>62</sup> William Colton Diary, entries on the 6, 8 October 1862 provide the names of his tent companions: Frank Remont, Mathias Colton (brother), Martin and Albert Cummings, and John W. Bowen. See list of those who obeyed orders on 26 December 1862, *OR*, I, XX, 2: 505–07 and the list of mutinous and loyal labeled as Inclosure 1 in the report of Major Neriah H. Davis, Assistant Inspector-General, U.S. Army, *OR*, I, XX, 2: 323–30.



Army life accustomed soldiers to living in such close proximity to other people whether through sharing a tent or eating in common. They grew familiar with using the company streets to pass information and the parade ground to gather in mass for public meetings. Their parade grounds and company streets were where officers and men rubbed elbows, practiced the soldierly arts, performed much of their daily routine, and performed the rituals of command and obedience. They also became, therefore, soldiers' sites for defiance and expressions of personal independence.

As a consequence, tent after tent across the Regiment held similar votes. Even though individuals followed their consciences and either obeyed or mutinied, the mess votes give dramatic evidence that Anglo soldiers retained an instinct for subsidiarity that was endemic to self-government. Even informally they devolved decisions to the smallest constitutive unit possible—the five or six men who shared a tent—in order to make those results reflective of “local” feeling without pressure from outside parties. In the end, a curious outcome resulted that is perhaps reflective of America's distinctive electoral system.

While a majority of soldiers opted to obey orders on 26 December, six out of ten companies could be called “mutinous.” Only companies E and L were overwhelmingly obedient. By contrast in company F, more than eight out of ten soldiers went against orders. Companies C, D, G, I, and K each had three-fifths or more mutinous men while company H had just under four-fifths of its personnel follow orders. Finally, only in company B came close to an even split; the men divided forty-five to forty-one in favor

of going to the front. Thus, on 26 December, 453 men obeyed orders to assemble with the other regiments of General Stanley's cavalry corps and 408 soldiers refused.<sup>63</sup>

Except that the numbers arrived at in these lists, collected during the Army's January 1863 inquiry into the mutiny, conflict with the later testimony of General Rosecrans, the eyewitness testimony of soldiers at the time, and the regiment's oral tradition.

Throughout the 15<sup>th</sup> Pennsylvania Cavalry's official history, as well as the published and unpublished accounts of veterans, those who went to the front were uniformly known in the Cavalry's shorthand as "The Three Hundred."<sup>64</sup> Eb Allison explained in his letters home "there were only between two and three hundred of us."<sup>65</sup> The mutineer Septimus Knight derided them at the time as "The noble 300???".<sup>66</sup> General Rosecrans stated definitively in postwar testimony that, "Only 300 went to the front.... No 400 went to the

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<sup>63</sup> Data is taken from author's analysis of the list of those who obeyed orders on 26 December 1862, *OR*, I, XX, 2: 505–07 and the list of mutinous and loyal labeled as Inclosure 1 in the report of Major Neriah H. Davis, Assistant Inspector-General, U.S. Army, *OR*, I, XX, 2: 323–30.

<sup>64</sup> For example, see J. C. Reiff, "Fifteenth Pennsylvania (Anderson) Cavalry at Stone River," 80, Wilmon W. Blackmar, "The Charge on Infantry at Stone River," 111, "Chronological History of the Fifteenth Pennsylvania Cavalry," 629, all in Kirk, ed., *History of the Fifteenth Pennsylvania Cavalry*; Selden L. Wilson, *Recollections and Experiences during the Civil War 1861–1865 in the Fifteenth Pennsylvania Cavalry Better Known as the Anderson Cavalry* (Washington, PA: self-published, 1913), 43; Fobes, "Mutiny in the Anderson Cavalry," 94; Charles M. Betts, 26 December 1862, "Memo from Diary, 1862–1865," "Mutiny by Col. [Charles B.] Lamborn reviewed by Genl. [William J.] Palmer," n.d., both in Betts Papers, HSP.

<sup>65</sup> Eb Alison to Dear Brother, Murfreesboro, TN, 3 January 1863 [#35], in Allison Collection, GLC03523.24, GLC. Allison also states in this letter that a skirmish on 26 December along the Nolensville Pike resulted in numbers of soldiers leaving the field. Likely although a handful might have sat out the battle in hiding, most of them returned to camp and joined the mutineers. This seems to be the best explanation for the initial count of loyal soldiers being so high while also providing for why later counts of the mutinous also grew in size. Major General William S. Rosecrans, in his testimony to the same committee before which Tweedale appeared in 1889 admits that cavalry regiments during an advance to contact such as at Stones River would have been in the worst position to keep accurate head counts because, "Their desks would be packed away and it would be very difficult to keep" regular morning reports "even in infantry, but with cavalry there would be still less chance," "Records of the Rebellion," 28.

<sup>66</sup> Septimus Knight, "1863 January February," Knight Diary, VMI.

front...It was only 300 that went into the fight.”<sup>67</sup> Therefore, it is entirely plausible that around 400 mutinied “until their rights were inquired into and redress obtained.” About 300 or so obeyed orders. And another 150 absented themselves from battle due to skulking, capture, or outright desertion.<sup>68</sup>

The Andersons’ initial choices between defiance and obedience marked a traumatic end to 1862 and a tumultuous New Year. Those men who believed their highest duty was to obey orders spent from 26 December to 1 January in either continual movement or combat. The most deadly encounter came on 29 December. Two battalions commanded respectively by Majors Frank Ward and Adolph Rosengarten impulsively charged after retreating Confederate cavalry near Wilkinson’s Cross Roads. Except they ran head-long into entrenched Georgia and South Carolina infantry regiments. Rosengarten died instantly, Ward was mortally wounded, along with another eleven killed, twenty-five wounded, and nine missing among the ranks.<sup>69</sup>

Back in Nashville, its commandant, Brigadier General Robert B. Mitchell, exerted what leverage he could. He encouraged the mutineers to “take up your arms” while admitting, “I have no right to command you without orders.” In addition he crafted a

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<sup>67</sup> Rosecrans testimony, “Records of the Rebellion,” 27.

<sup>68</sup> Eb Allison to Dear Brother, Camp near Murfreesboro, Tennessee, 23 February 1863 [#42] and Eb Allison to Dear Brother, Camp near Murfreesboro, Tennessee, 4 March 1863 [#45], in Allison Collection, GLC03523.24, GLC; *OR*, I, XX, 2: 367-69; Sergeants Charles Betts, John S. Bower, William Conard, signing a “Statement of Grievances” for Company E., 15th Pennsylvania Cavalry, 7 January 1863, Betts Papers, HSP.

<sup>69</sup> A. D. Frankenberry, “The Halt at Overalls Creek,” 101–102, John G. Marshall, “What I Saw of Stone River,” 108–110, Wilmon W. Blackmar, “The Charge on Infantry at Stone River, 111–115, C. Lewis Diehl, “Among the Dead and Wounded at Stone River,” 129–36, all in Kirk, ed., *History of the Fifteenth Pennsylvania*; Eb Allison, 3 January 1863, Allison Collection, GLC03523.24 [#35], GLC; called the charge “one of the most foolhardy I ever knew of.”

communiqué to his superior presenting the mutineers as “perfectly peaceable,” despite having been “deceived,” and requesting only to be “officered and organized.” Unsure what further steps he could take on his own initiative, he somewhat sheepishly asked for “instruction what to do with them.”<sup>70</sup>

Such instructions came in succession from Rosecrans. Perhaps influenced by Mitchell’s outlook, Rosecrans wanted to signal he recognized the legitimacy of the mutineers’ grievances. He recalled to the Troop any man detailed as a temporary officer in the 15<sup>th</sup> Pennsylvania Cavalry. Acknowledging that official commissions required the governor’s seal, he drafted entirely new “acting appointments” for a cohort of Troopers to command the Regiment. But Majors Rosengarten, Ward, and the current officers who had departed for the front with the “Three Hundred” never received these orders. His new dispositions only confirmed the dissenters’ convictions that their soldier rights were being honored in the breach: again they had to accept outsiders rather than officers of their own. The men in camp at Nashville refused to unstack their arms. Furthermore, Rosecrans offended those Troopers who had been temporary officers but did not make the new list. Out of spite, they encouraged the dissenters to stand their ground.<sup>71</sup>

Rosecrans also relayed again, through Mitchell, to the mutineers that they should march to his headquarters and expect to be placed in the field unless they wanted to be

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<sup>70</sup> Brigadier General Robert B. Mitchell, Commanding Post of Nashville, to Lieutenant George S. Fobes, 15th Pennsylvania Cavalry, 27 December 1863 and Mitchell to Lieutenant Colonel J. P. Garesché, Chief of Staff, Army of the Cumberland, Headquarters Post, Nashville, 27 December 1862, *OR*, I, XX, 2: 355–56.

<sup>71</sup> Maple, “Anderson Troop,” in Kirk, *History of Fifteenth Pennsylvania Cavalry*, 619; Rosecrans to General R. B. Mitchell, Headquarters, Department of the Cumberland, 29 December 1862, *OR*, I, XX, 2: 356–57; Charles Betts, “Data for History of 15<sup>th</sup> Penna. Cavalry, c. 1868, Betts Papers, HSP.

seen as “kid glove soldiers.”<sup>72</sup> Captain Henry O. Tintsman, acting in command of Company F, explained to headquarters on 29 December that some 400 men still refused to serve.<sup>73</sup> Tintsman could only rouse thirty men from various companies to march with him to Rosecrans’s headquarters at Stewart’s Run near Murfreesboro on the morning of 30 December.<sup>74</sup>

Later that same morning, Brigadier General James D. Morgan arrived at the mutineers’ camp with the 10<sup>th</sup> Illinois Infantry and a detachment from the 5<sup>th</sup> Kentucky Cavalry.<sup>75</sup> He carried orders from a frustrated Rosecrans. After two unheeded appeals to the mutineers, he had resolved on punitive measures to “disgrace” them. He wanted an intimidating show of force that would convince them to serve as ordered. If they refused, Morgan was to “take such measures and use such force as you may deem necessary to make them march.” Charles Weller reported that once he and his fellow mutineers were promised a chance to “state our grievances we accordingly started 250 of us” for General Rosecrans’s headquarters.<sup>76</sup> In reality, something much closer to a popular constitutional standoff ensued on the parade ground that morning.

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<sup>72</sup> Colonel J. P. Garesché, Chief of Staff, Army of the Cumberland, Headquarters, near La Vergne to Brigadier General Robert B. Mitchell, Commanding, Nashville 29 December 1862, *OR*, I, XX, 2: 357; the “kid glove” comment is from Rosecrans’s testimony, “Records of the Rebellion,” 25.

<sup>73</sup> Captain Henry O. Tintsman to Brigadier General Robert B. Mitchell, Commanding Post of Nashville, 29 December 1862, Betts Papers, HSP.

<sup>74</sup> Captain Henry O. Tintsman, Camp Ward, to Major N. H. Davis, Assistant Inspector-General, U. S. Army, 28 January 1863, *OR*, I, XX, 2: 358–59. These erstwhile mutineers joined the “Three Hundred” on New Year’s Eve.

<sup>75</sup> James D. Morgan, Brigadier General, Commanding Fourth Division, to Captain John Pratt, Assistant Adjutant General, Post, 29 December 1862, *OR*, I, XX, 2: 359–60.

<sup>76</sup> Weller to McElwain, 18 January 1863, Weller Letters, USAMHI.

In the absence of a commanding officer since Tintzman's departure, Morgan ordered the men to stand for review. They had thirty minutes to ready themselves and their mounts to march.<sup>77</sup> Soldiers "equipped themselves as for dress parade, *but without arms*" and "marched out by companies...with a precision and celerity" that would have marked the most disciplined regiments. Cognizant of this still defiant stance, Morgan signaled his troops to load their weapons, read his orders to the 15<sup>th</sup> Pennsylvania, and queried "if they still refused to march." A number of mutineers, while keeping ranks, bravely reiterated their grievances about poor organization and a lack of officers. Morgan was unmoved and granted them five minutes to decide their fate.<sup>78</sup>

In his later report, Morgan explained that, "Some few of the members commenced saddling up, the remainder refusing, and expressing a strong desire to be arrested."<sup>79</sup> George Fobes, as the only eyewitness for the mutineers, believed that this desire for arrest sprang from a attested to their just claim to self-government. He characterized the mutineers as "strong in their *conviction of right*, facing two regiments that might in a few moments more cut them to pieces." He petitioned General Morgan for more time "to go amongst the men" and urge compliance. According to Fobes, the Andersons' cool defiance in the face of dread forced the general's hand. Morgan insisted that General

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<sup>77</sup> James D. Morgan, Brigadier General, Commanding Fourth Division, to Captain John Pratt, Assistant Adjutant General, Post, 29 December 1862, *OR*, I, XX, 2: 359.

<sup>78</sup> Fobes, 96. Emphasis added.

<sup>79</sup> James D. Morgan, Brigadier General, Commanding Fourth Division, to Captain John Pratt, Assistant Adjutant General, Post, 29 December 1862, *OR*, I, XX, 2: 359.

Rosecrans “would do them justice,”<sup>80</sup> while granting to “the Cavalry that, after all, their wishes and his orders were about the same; that his desire was to lead them to Gen. Rosecrans, who would see, he doubted not, that they were at once properly organized.” As Ward and Spencer before him, Morgan’s promise finally “had the desired effect.”<sup>81</sup> They began to mount, “making a request that an officer be detailed to lead them.” After putting the mutineers under the command of the 10<sup>th</sup> Illinois’s Lieutenant Colonel Wood, Morgan led this provost force back to Nashville.<sup>82</sup>

Yet only a hundred mutineers reached the city and Rosecrans’s headquarters. The column was harassed by three regiments of Confederate cavalry which forced the majority to return to the Anderson’s camp. The Army tried again on 31 December to rally the mutineers, but to no avail. Only eighteen men, including Charles Weller, relented and served as couriers for General Mitchell. At this point, with the Battle of Stones River underway, an exasperated Rosecrans ordered the stalwarts be placed under arrest at Nashville. About 200 men suffered imprisonment in a workhouse, “a building used by the city authorities as a lockup for drunken and disorderly rabble” according to the mutineer Septimus Knight. By 10 January some 100 stragglers from Wood’s original column also found themselves confined there and about the same number in the nearby county jail. Roughly 300 men were accounted either dead, in hospital wounded, or

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<sup>80</sup> James D. Morgan, Brigadier General, Commanding Fourth Division, to Captain John Pratt, Assistant Adjutant General, Post, 29 December 1862, *OR*, I, XX, 2: 359.

<sup>81</sup> Fobes, 97. Emphasis added.

<sup>82</sup> James D. Morgan, Brigadier General, Commanding Fourth Division, to Captain John Pratt, Assistant Adjutant General, Post, 29 December 1862, and Lieutenant Colonel M. F. Wood to Acting Assistant Adjutant General, Lieutenant Theodore Wiseman, Nashville, Tennessee, 24 January 1863, *OR*, I, XX, 2: 359-60. The addition of a commanding officer transformed what might have been a train of criminals into a legitimate military detachment moving across the battlefield.

missing. Finally, just over 200 obedient soldiers now encamped separately. In the recollection of George Fobes, many of the Three Hundred “courageously gave up their arms and joined their comrades in the Workhouse” from a “determination which they had formed with their comrades, to compel a reorganization of the regiment.”<sup>83</sup> A broad feeling persisted in the Cavalry that the maintenance of their soldier rights was a serious matter, one so grave that it merited sacrifices and privations atop those recently endured on the battlefield

That both loyal and mutinous soldiers recognized the ongoing threat to their soldier rights of membership, selection, and election is born out by a petition dated 31 December and endorsed by 536 soldiers. Addressed to Secretary Stanton, it reiterated the soldier rights upon which they had based the mutiny.<sup>84</sup> A campaign for redress followed that eventually encompassed national, state, and military authorities as well as citizen allies in Pennsylvania. Although the Battle of Stones River concluded on 2 January 1863, until well into February the men of the Cavalry—whether mutinous or obedient—engaged in a calculated popular constitutionalism aimed at exercising their soldier rights and thereby achieving a measure of local control over their regiment.

Hoping to end the mutiny, Rosecrans tried to frustrate the Andersons’ solidarity through special orders on 9 January that praised the Three Hundred’s gallantry but

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<sup>83</sup> Weller to McElwain, 18 January 1863, USAMHI; Lieutenant Colonel M. F. Wood to Acting Assistant Adjutant General, Lieutenant Theodore Wiseman, Nashville, Tennessee, 24 January 1863, *OR*, I, XX, 2: 360; Septimus Knight, 1 January 1863, Knight Diary, VMI; Paul, et al. petition, *OR*, I, XX, 2: 370–71; Fobes, 99. According to Major N. H. Davis, Assistant Inspector-General, to Brigadier General Lorenzo Thomas, Adjutant General of the Army, Nashville, Tennessee, 27 December 1863, *OR*, I, XX, 2: 375, 93 of the “Three Hundred” refused any further duty and took up residence with the mutineers.

<sup>84</sup> Reeder, et al., petition, *OR*, I, XX, 2: 367.



shamed the mutineers for betrayal of their “kin” and the “honor of their native state.” But he extended clemency to them as well, reversing the mutineers’ own contractual logic. In these remarks he drew on the bonds of associational culture, urging them to “resolve on some reparation” to restore their broken oath to the Army and the Union “before covering them with that deserved infamy which will blast them forever in the esteem of their fellows.”<sup>85</sup>

By March, Rosecrans settled on withholding pay in order to force the most intransigent soldiers to resume service. He could have court-martialed them for mutiny under the Articles of War and its verdict might well have been death. The decision to interrupt their pay suggests that Rosecrans did not believe the Cavalry’s complaint was completely baseless. The punishment also hearkened back to the modes of correction countenanced in antebellum volunteer soldiering wherein punishment either took the form of fines or dismissal from the association. Therefore, Rosecrans appeared to be encouraging a change of heart rather than seeking definitive retribution. Again, his change of course seemed to indicate that he believed, in regards to matters of contract

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<sup>85</sup> Major General William S. Rosecrans, Special Field Order No. 6, paragraph XVIII, 9 January 1863, Department of the Cumberland, Headquarters, Army of the Ohio,, Murfreesboro, Tennessee in Charles M. Betts Papers, 1862-64, Coll. 1889, HSP.

and organization, that citizens in uniform should be handled differently than regulars.<sup>86</sup>

Even so, the mutineers' pay did not resume until April 1863.<sup>87</sup>

Rosecrans's repeated willingness to bear the mutiny patiently probably encouraged the Cavalry to dig in its heels and provided time for its advocates at home to launch their own efforts. On 10 January 1863 the mutineers provided a detailed public letter to their allies in Philadelphia who had styled themselves as a committee "deputed to inquire into the condition of the Anderson Cavalry." They retold the Regiment's history from recruitment to stacking arms. Citing their "hopeless and useless condition," the petitioners set the now familiar grievances as grounds for "simple justice from the hands of a Government we would have died to save." Moreover, they believed such justice meant honorable discharges "from an organization that has become odious." Not only to escape confinement, but for the right to "re-enlist" with another regiment, "where they can do justice to themselves, their country, and God-given principles of *self-government*."<sup>88</sup> Here then, the right of alienation made possible the integrity of the citizen's right to associate with a new organization; to form, in a local paradigm, a more

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<sup>86</sup> Major General William S. Rosecrans, Headquarters, Department of the Cumberland, Special Field Order No. 57, paragraph XII, 1 March 1863, Murfreesboro, Tennessee, in 15th Pennsylvania Cavalry, Regimental Order Book, Book Records of Volunteer Union Organizations, RG 94 Records of the Adjutant General's Office, National Archives, Washington, D.C.

<sup>87</sup> Major General William S. Rosecrans, Headquarters, Department of the Cumberland, Special Field Order No. 106, paragraph VIII, 19 April 1863, Murfreesboro, Tennessee, in 15th Pennsylvania Cavalry, Regimental Order Book, Book Records of Volunteer Union Organizations, RG 94 Records of the Adjutant General's Office, National Archives, Washington, D.C. Rosecrans admitted after the fact that dealing with the Cavalry's mutiny required "great care and great delicacy," "Records of the Rebellion," 26.

<sup>88</sup> M. Cooper Paul, et al., Nashville, TN to Rev. Alexander McCauley, et al. of the Committee of Citizens of Philadelphia, 10 January 1863, *OR*, I, XX, 2: 368-71. For some suggestive remarks in this direction while not explicit, see Peter J. Parish, "Conflict by Consent," in Peter J. Parish, *The North and the Nation in the Era of the Civil War*, ed. Adam I. P. Smith and Susan Mary-Grant, (New York: Fordham University Press, 2003), 156-58.

perfect union. For the soldiers of the Anderson Cavalry, their regiment's "organization" was that of the Union writ small.

Individual companies also drafted their own memorials and public letters. Soldiers who had obeyed orders on 26 December helped draft both of these petitions. Company E, for instance, believed it had been "completely deceived" about the size of the Anderson Cavalry and its service. Promises about its officers had "never been fulfilled." Now they faced the prospect of serving as "common cavalry" in a brigade, not in an independent command attached to Rosecrans's headquarters as their recruiters had assured them.<sup>89</sup>

As petitions and letters flowed eastward from the Regiment, citizen advocates and family members in Pennsylvania pressured the Army and civil authorities to release the prisoners. Dating back to the mutiny's outbreak, the Andersons' camp had been inundated with visitors. At first merely curious soldiers and Nashvillians, voices emanating from the Keystone State increasingly intervened as December turned to January.<sup>90</sup> They became a vital link between the camp ground and meeting hall. Kin and neighbors of the mutineers held public meetings in Philadelphia and Pittsburgh (and presumably other locales too) during December and January. Home-grown inspectors and investigators left these meetings for Nashville, with their expenses paid and their agendas determined through the kinds of spontaneous local initiative that had raised so

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<sup>89</sup> Sergeants Charles Betts, John S. Bourne, and William Cowan's signatures to a "Statement of Grievances" for Company E., 15th Pennsylvania Cavalry, 7 January 1863, Charles M. Betts Papers, 1862-64, Coll. 1889, HSP. All three petitioners had only recently been among the Three Hundred.

<sup>90</sup> Eb Allison to Dear Brother, 4 March 1863, Camp near Murfreesboro, Allison Collection, GLC03523.24 (#45), GLC; Major N. H. Davis, Assistant Inspector-General to Brigadier General Lorenzo Thomas, Adjutant General of the Army, Nashville, Tennessee, 27 December 1863, both in *OR*, I, XX, 2: 375.

many Pennsylvania regiments. For example, An elected chairman opened a meeting held at the Young Men's Christian Association (YMCA) in Philadelphia with a prayer before asking that its correspondence with the mutineers and the military authorities be reported out. The meeting also raised money to pay for attorneys hired in the men's defense. The chairman's pointed address summed up the gathering's *raison d'etre*: "Let these boys receive the sympathy they deserve, and let an effort be made to relieve them from a terrible military despotism."<sup>91</sup> In fact, citizens like W. W. Ward, brother of deceased Major Frank Ward, had already corresponded with General Rosecrans and announced that he and other prominent Pennsylvanians intended to pressure the War Department for the mutineers' release.<sup>92</sup>

The matrix of soldier and citizen activism produced results, none more impressive than the effect on Washington and the Army. On 16 January a committee of Pennsylvania citizens wrote Secretary Stanton recounting the men's grievances, recommending the regiment be disbanded, and requesting honorable discharges for the men of the Cavalry. The authors claimed too that Rosecrans had the mutineers "confined in loathsome prisons."<sup>93</sup> Only a day later, Adjutant General of the Army Lorenzo Thomas dispatched an assistant inspector-general, Major Neriah H. Davis, to "inquire

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<sup>91</sup> "The Anderson Troop," 24 January 1863, Philadelphia *Press*.

<sup>92</sup> W. W. Ward to Rosecrans, 12 January 1863, Nashville, Tennessee *OR*, I, XX, 2: 371-72.

<sup>93</sup> W. H. Stokes, Robert Thomas, James M. Stewart, and Samuel Murphey, M.D., to Stanton, Washington, D.C., 16 January 1863, *OR*, I, XX, 2: 372-73. Thomas and Stewart were direct relations to soldiers of the Three Hundred; Stokes and Murphey to mutineers.

minutely into...everything connected with the arrest and confinement of these men.”<sup>94</sup>

Stanton also followed his orders to Thomas with a sharp rebuke to General Mitchell.

Accepting the claims of the petitioners on their face, Stanton accused Mitchell of handling the mutineers “in a cruel and improper manner.”<sup>95</sup>

Secretary Stanton’s sudden intervention into the affair prompted Rosecrans to seek a quick and generous resolution. Private Milton Shaw observed that “as soon as the Officer came from Washington [Major Davis] and saw how we had been swindled he ordered us to be released.”<sup>96</sup> In fact, only two days after Stanton’s missive to Mitchell, Rosecrans proposed a gracious pardon to all the imprisoned men of the Cavalry. He further promised them “officers of their own selection, re-equipment, and offered to take them on duty at his headquarters if they would go to duty.”<sup>97</sup> In one fell swoop they had secured their essential soldier rights on the good authority of their commanding general. In the words of Eb Allison, Rosecrans had “granted them all they had asked” for over the previous three months.<sup>98</sup>

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<sup>94</sup> Brigadier General Lorenzo Thomas, Adjutant General of the Army, Washington, D.C., to Major N. H. Davis, Assistant Inspector-General, Washington, 17 December 1863, *OR*, I, XX, 2: 373.

<sup>95</sup> Secretary of War Edwin M. Stanton to Brigadier General Robert B. Mitchell, Nashville, Tennessee, 17 January 1863. Mitchell in a communique sent 20 January defended himself against Stanton’s charges of “inhumanity,” Mitchell to Stanton, 17 January 1863, both in *OR*, I, XX, 2: 373-74. Major N. H. Davis, Assistant Inspector-General to Brigadier General Lorenzo Thomas, Adjutant General of the Army, Nashville, Tennessee, 27 December 1863, both in *OR*, I, XX, 2: 374-75.

<sup>96</sup> Milton E. Shaw to Dear Cos, Murfreesboro, TN, 16 March 1863, CWMC, USAMHI.

<sup>97</sup> Cited in preliminary report of Major Davis to Adjutant-General Thomas, 27 January 1863, *OR*, I, XX, 2: 375.

<sup>98</sup> Eb Allison to Dear Brother, 4 March 1863, Camp near Murfreesboro, Allison Collection, GLC03523.24.45, GLC. See also, Annesley Morton to My Dear Bro, Murfreesboro, TN, 28 February 1863, CWMC, USAMHI.

At this juncture, however, the rights to election and to service terms came into conflict with the right of alienation. As a result the Cavalry lost its chance to have Rosecrans meet all their demands. Private Shaw chalked the lost opportunity up to “underhanded deviltry.”<sup>99</sup> It may have been, but the blame rested on those dissenters who pressed increasingly for disbandment and drew conviction from the citizen committees. Eb Allison summed it up accordingly:

Some of the men being tired of the service and under the impression that they would be disbanded if they held out awhile longer, rejected General Rosecrans’s order and dissuaded their comrades who were inclined to accept it from doing so. They were encouraged in this course by letters received from home, too. They had it in their power to atone to a great extent for their misstep, but unfortunately let the opportunity pass by without taking advantage of it. General Rosecrans has since rescinded his order and now the recusants will be compelled to return to the regiment.<sup>100</sup>

There were about 200 of these “recusants.” They had gone from treating the mutiny as a proper means of securing their rights while in uniform to using it as an occasion to negate what they had come to see as the arbitrary and unjust actions of the Army; what their Pennsylvania friends earlier termed “the doctrine of military despotism.”<sup>101</sup> As they had expressed in their petition to Stanton above, gross disorganization demanded that soldiers have the right to disassociate.

The public meetings by civilians at halls in Pennsylvania, as well as those by citizen-soldiers in their tents in Tennessee, are unmistakable sites of antebellum self-government. Each case offers examples of citizens acting as legislators of their own

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<sup>99</sup> Milton E. Shaw to Dear Cos, Murfreesboro, TN, 16 March 1863, CWMC, USAMHI.

<sup>100</sup> Eb Allison to Dear Brother, 4 March 1863, Camp near Murfreesboro, Allison Collection, GLC03523.24 (#45), GLC.

<sup>101</sup> Palmer to Fry, 15 February 1863, *OR*, I, XX, 2: 376.

local affairs by voting on ballot questions and then directing a course of action. Furthermore, the citizen committees likely required the crafting of procedural and administrative apparatuses to conduct meetings, raise and distribute funds, and elect officers. Military protest actions alongside citizen popular constitutionalism both stood in the breach to preserve self-government. Mutiny, and its ancillaries before and after, put soldiers' foundational and procedural rights into action. When their citizen partners adopted the soldiers' concerns as their own and launched instances of scrutiny and assembly themselves, they acknowledged that defending soldiers' rights of membership against the Army's instrumentalism was the latest contest in the Republic's interminable struggle against unconstitutional authority.<sup>102</sup>

The mutiny secured the Regiment its service as an independent unit and propelled it toward perhaps one of the most exciting records in the entire Army, if not the most consequential. Immediately after the Battle of Stones River, it came under the direct control of a district commander and performed reconnaissance, intelligence, and raiding missions. For the balance of 1863 and all of 1864 it continued under army-level command. For example, during December 1864 under the direct control of Major General George H. Thomas (Rosecrans's successor), the 15<sup>th</sup> Pennsylvania Cavalry marched 360 miles, touching parts of Tennessee, Georgia, and Alabama. They attacked three Confederate supply trains in that time, taking forty-seven prisoners and destroying 310 wagons. In 1865 more laurels accumulated. In March, Palmer gained a brevet

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<sup>102</sup> Larry D. Kramer, *The People Themselves: Popular Constitutionalism and Judicial Review*, (New York: Oxford University Press, 2004), 180; Christian G. Fritz, *American Sovereigns: The People and America's Constitutional Tradition before the Civil War*, (New York: Cambridge University Press, 2008), 193-94, 297.

brigadier-general's star and command of First Brigade, First Cavalry Division, Department of East Tennessee prior to joining Major General George Stoneman's raid through Virginia and North Carolina. With Charles Betts in command as colonel, the Regiment pursued Confederate general P. G. T. Bureaugard, captured General Braxton Bragg, and was within miles of capturing Jefferson Davis on 10 May 1865. By war's end, the Regiment claimed six Medal of Honor winners, including Betts and Palmer.<sup>103</sup>

But none of this might have come to pass were it not for the mutiny and the dramatic return of Colonel William Jackson Palmer from Confederate capture on 7 February 1863. In his first speech to the Regiment on 22 February he spoke proudly of the 15<sup>th</sup> Pennsylvania's service at the Battle of Antietam and looked forward with hope to the future. He promised them that, "This regiment will be reorganized." Addressing them as "fellow soldiers," he asked for "your earnest and willing cooperation" to institute a new schema. With Rosecrans's approval, he shuffled the personnel in every company, rebuilding each one around cadres from the Three Hundred. He had already begun to relocate the Cavalry to a new camp near Murfreesboro on 14 February such that most of the loyal men were there by the beginning of March. Gradually Palmer reintegrated the mutineers, moving them down to "Camp Curtin" in groups of seventy and distributing

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<sup>103</sup> Palmer, Introduction, draft "History of the 15th Pennsylvania Cavalry," Series II, David Allen Cronin Papers, NYHS; "Chronological History," in Kirk, ed., *History of the Fifteenth Pennsylvania Cavalry*, 631–39. The honor of capturing Davis went to picked horsemen from the 4th Michigan Cavalry, commanded by Lieutenant Colonel Benjamin D. Pritchard, see Julian G. Dickinson, "The Capture of Jefferson Davis," in *War Papers Read before the Commandery of the State of Michigan Military Order of the Loyal Legion of the United States*, Vol. I: from 6 October 1886 to 6 April 1893 (Detroit, MI: Winn and Hammond, 1893). Chris J. Hartley, *Stoneman's Raid, 1865* (Winston-Salem, NC: John F. Blair, 2010), 371, explains that the 4th Michigan formed part of Major General James Harrison Wilson's Cavalry Corps in the Military Division of the Mississippi. "Wilson's cavalry played the role of waiting hunters, while Palmer's served as the pack hounds driving Davis toward them."



them throughout the regiment—after they assented to the new arrangements. He did his best to put a stop to the isolated discharges, which highly-placed Pennsylvanians arranged for their friends or family. By this point, sensitive to the men’s claim on organizational integrity, Palmer endeavored to preserve an intact, albeit rearranged, regiment. Finally, he inaugurated a regimen of drill and fatigue to keep the men occupied and reestablish the Cavalry’s esprit d’corps.<sup>104</sup>

Even after its reorganization, the Regiment was no panacea. The role of the Troop was initially problematic, even for Palmer. In his speech he announced that he would continue to honor the expectation that the Troop would be the Regiment’s Company A. But this looked like special treatment in the eyes of the Regiment’s original companies being broken up. Palmer, however, might have believed the mutineers’ complaints could best be neutralized if he sequestered the object of their ire in a single company. Yet, Palmer’s own plans for officers did not hew to this logic of isolation. In his speech, Palmer outlined that the 15<sup>th</sup> Pennsylvania Cavalry would have 33 commissioned and 165 non-commissioned officers. Palmer extended 145 non-commissioned slots to the “new men,” but only 11 commissions—the rest belonged to the Troop. These numbers meant that Troopers would either be some of the officers in the reorganized companies of “new men” or serving with their fellows in Company A. Either way it seemed destined to replicate the very associational cleavages that led to the mutiny. All he could

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<sup>104</sup> Address of Colonel William Jackson Palmer to the 15<sup>th</sup> Pennsylvania Cavalry Regiment, in “Camp Ward,” Nashville, Tennessee, 22 February 1863, Betts Papers, Coll. 1889, HSP; by order of the Secretary of War, signed by Adjutant General Lorenzo Thomas, War Department, Special Orders no. 59, paragraph 26, 5 February 1863, Washington, D.C. in 15<sup>th</sup> Pennsylvania Cavalry, Regimental Order Book, Book Records of Volunteer Union Organizations, RG 94 Records of the Adjutant General’s Office, National Archives, Washington, D.C.

promise was that “your regiment shall be the best officered of any regiment in the service.”<sup>105</sup>

It appears that Palmer felt almost beholden to the Troop to honor its expectations in connection with the Regiment. But it might have had as much to do with issues of place. Judging by Eli Hewitt’s comments to his brother, “there will always be dissatisfaction” because it seemed Palmer instinctively privileged the Troop due to its Philadelphia origins. “Do not join this regiment...if you ever wish to be promoted; you cannot do it as long as there is [*sic*] any Philadelphians in the regiment.”<sup>106</sup> Eb Allison also explained with some wit that, “Those commissioned from the regiment [after reorganization] were all Philadelphians showing which way the wind blows, tho [*sic*] it is considered a Philadelphia organization, especially by the Philadelphians.”<sup>107</sup>

Nevertheless, Colonel Palmer’s return and his plan of reorganization resurrected the 15th Pennsylvania Cavalry. Men who wanted to leave the Regiment or see it disbanded in the weeks immediately following the mutiny eventually changed their minds.<sup>108</sup> Eb Allison’s decision to remain in the Anderson Cavalry was influenced by Palmer’s remarks,

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<sup>105</sup> Palmer to Fry, 15 February 1863, Nashville, Tennessee, *OR*, I, XX, 2: 376. Rosecrans ordered the list of officers sent to his headquarters, Charles M. Betts, “Reorganization and Middle Tennessee Campaign” in Kirk, ed., *History of the Fifteenth Pennsylvania Cavalry*, 187. Palmer Address, 22 February 1863, Betts Papers, HSP.

<sup>106</sup> Eli Hewitt to Dear Brother, 30 May 1863, Hewitt Letters, USAMHI.

<sup>107</sup> Eb Allison to Dear Brother, Camp near Murfreesboro, Tennessee, 4 March 1863, GLC03523.24 (#45), Eb Allison Collection, Gibson Civil War Letters Collection, Gilder Lehrman Collection, New York.

<sup>108</sup> Eb Allison to Dear Brother, Camp near Murfreesboro, Tennessee, 4 March 1863, Eb Allison Collection, Gibson Civil War Letters Collection, GLC03523.24.45, Gilder Lehrman Collection, New York; Theodore Ramsey to Dear Coz, 25 July 1863, camp at Winchester on the Elk River, Civil War Miscellaneous Collection, USAMHI.

in which he said that matters had been badly conducted in the regiment, made good promise, and created a feeling akin to admiration in me for him, which I would have thought impossible before hearing him. And I must say that he had made a good beginning.<sup>109</sup>

Nearly all these citizen-soldiers remembered their binding pledge of association with their fellows and for the Union. They accepted Palmer's plan of reorganization in February as a necessity to recommit and rejoin the Regiment. The handful who refused remained confined and eventually were dishonorably discharged.

Yet, as Palmer seemingly placated the Troop, Rosecrans grew more convinced that honoring the Regiment's terms of service as his headquarters escort meant disbanding the Troop. It brought the conflicting soldier rights of the two units to a final reckoning. Palmer announced his officer appointments in February and Rosecrans approved a transfer to the 15<sup>th</sup> Pennsylvania for any member of the Troop. As March approached, only six captains and six first lieutenants had been appointed; three of each from the old Troop and the Regiment. And most of the Troop did not seek membership. Prior to his 7 February speech Palmer met with the Troop's acting commander, First Lieutenant Thomas W. Maple, to establish a working relationship between the two bodies. Palmer explained he wanted the Troop as Company A and outlined his plans for commissions. Speaking for the forty-four men whom he commanded, Maple respectfully stated "the objection of the Old Anderson Troop to uniting with the Regiment." Perhaps a bit too optimistic, Palmer went public with his plans anyway, likely believing he would be able to change their minds.

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<sup>109</sup> Eb Allison to Dear Brother, Camp near Murfreesboro, 23 February 1863, Eb Allison Collection, Gibson Civil War Letters Collection, GLC03523.24.42, Gilder Lehrman Collection, New York.

Shortly afterwards, however, Rosecrans intervened and shifted to retaining the Regiment alone. He ordered that due to the Troop's reduced numbers and because "the Regiment was raised with the understanding" that it would serve at headquarters, he would provide honorable discharges to those Troopers who requested them. The dutiful soldier Eb Allison believed the Troop balked at amalgamation because it was they who had been "recruited as an independent company." With the shoe on the other foot, a forced merger with the 15<sup>th</sup> Pennsylvania would have transgressed their own rights of selection and alienation. Quietly and semi-officially, the Anderson Troop rejected consolidation and stood by the integrity of their organization at the price of its continued existence. Consequently, on 26 March 1863 Rosecrans ordered them mustered out and the Anderson Troop disbanded.<sup>110</sup>

That still left those erstwhile Troopers whom Palmer had already proposed as officer candidates for the Regiment in February 1863. Both Governor Curtin and the War Department were reluctant to confirm them once Rosecrans had settled on dissolving the Troop. Learning that their organization was to be disbanded heightened the Troopers' sense that they were now interlopers. In what amounted to a "shoulder-strap" mutiny on 8 May 1863, these officers refused *en masse* to continue their service with the Regiment and Rosecrans relieved them of their duties.<sup>111</sup> This move, combined with the disbandment of the Troop, essentially purged the Regiment of its presence. In fact, its

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<sup>110</sup> Maple, "The Anderson Troop" in Kirk, ed., *History of the Fifteenth Pennsylvania Cavalry*, 619-20; Charles M. Betts, "Reorganization and Middle Tennessee Campaign" in Kirk, ed., *History of the Fifteenth Pennsylvania Cavalry*, 187, 190; Eb Allison to Dear Brother, Camp near Murfreesboro, TN, 4 March 1863, Allison Collection, GLC03523.24 (#45), GLC.

<sup>111</sup> Maple, "The Anderson Troop" in Kirk, ed., *History of the Fifteenth Pennsylvania Cavalry*, 619-20; Eli Hewitt to Dear Brother, 30 May 1863, Hewitt Letters, USAMHI.

only members remaining with the 15<sup>th</sup> Pennsylvania Cavalry were the solitary captain of Company I, W. W. DeWitt, and Palmer himself. The members of the Cavalry had at long last secured their rights to selection. With the mutiny and its reverberations finally addressed, there remained little doubt about who were its victors.

The Anderson Cavalry's mutiny was a clear victory for soldier self-government. It protected nearly all of their essential rights. The soldiers of the Regiment established their claims to selection and alienation. The Army also largely validated the Cavalry's terms of service. The 15th Pennsylvania secured its posting as an independent, headquarters escort. It obtained a full slate of officers drawn entirely from within the ranks of those men who were members in 1862. The integrity of their Regiment as a unique organization was affirmed. With the removal of the Troop, even Company A shed any connection to its lineage. In only one fundamental respect—officer elections—did the mutiny fail.

This microhistory of the 15<sup>th</sup> Pennsylvania Cavalry's dual mutiny establishes a firm connection between Anglo soldiers' rights, the nature of their regimental membership, and their attachment to the Union war effort. First, the Army underwrote the soldiers' constitution of the Regiment. Second, the mutiny definitively ended the Troop's sway over it. Third, it is clear that although the joint home/front agitation on behalf of the Andersons cost them a complete victory, without the civil dimension to the military protest the mutineers would have gained much less.

All three of these revelations point back to Eb Allison's lament in the mutiny's immediate aftermath that the Andersons had been duped—tricked into unwittingly

jeopardizing their few rights as soldiers—and left with “a stain” on the Regiment’s reputation and theirs as fighting men. He insisted at the time that if given “a voice in the selection of our officers” and “ordinary attention at the hands of the authorities” the Anderson Cavalry could have achieved a “glorious name.” Instead it was “an exploded bauble” and “Pennsylvania’s bastard regiment.”<sup>112</sup>

It was the mutiny that reversed all of these trends. It yoked localism and associational culture to the cause of soldier rights. The military protest action, sustained through Pennsylvanian citizen allies, restored the Cavalry’s voice over its organization and captured the attention of the Army. Those developments led inexorably to the Troop’s demise. As the Regiment increased, so the Troop decreased. Membership in a voluntary association demanded civic action from citizens both in and out of uniform. The dynamic on display in the soldier/citizen mutiny of the 15<sup>th</sup> Pennsylvania Cavalry demonstrated how soldier status reinforced Anglos’ understanding of themselves as rights-bearing citizens.

Finally, the microhistory of the Anderson Cavalry mutiny helps to understand what “Union” meant for Anglo volunteers. It enriches interpretations of broader wartime debates about loyalty and free speech typically identified with the Merryman case, the suspension of *habeas corpus*, the draft riots, and the Vallandigham affair. Mutinies reflected the capacity of Northern public culture to channel public dissatisfaction with the war effort in useful directions. Duteous soldiers like Lancaster Thomas realized the

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<sup>112</sup> Eb Allison to Dear Brother and Sister, Camp Negley, near Nashville, 13 January 1863, and Allison to Dear Uncle [Samuel Allison], “Camp Ward,” near Nashville, 6 February 1863, both in Allison Collection, GLC03523.24 (#38, #40), GLC.

mutineers were “not satisfied with the officers” and guessed 100 men had already deserted at Louisville “because we could not go [to Nashville] as Buell’s Body Guard.” But Thomas explained that, “I went to guard my own body and that of my country.” So far he had been “submissive to its demands, but should things remain in a disorganized state much longer I will leave active service” for the Commissary Department. Yet, on the eve of Palmer’s reappearance Thomas was willing to “consign my fate” with the Regiment “if it be properly officered and organized again.” Eb Allison did not deny the justness of his comrades’ complaints. “The men had sad grievances of which to complain, but they did it in the *wrong manner*, and at the *wrong time*.”<sup>113</sup> Still, he “feared that as a regiment, it was in too bad order with the public.” But Palmer’s return had worked a change. “Now that matters seem to be in a fair way for settlement I am satisfied to try the new regime.” Renewed in his “hope to serve through the war,” he retained his conviction that “we both can and will whip the rebellious hounds into good, law abiding citizens.” Only then could he “go home to remain there,” confident he might live “in peace the rest of my days.”<sup>114</sup> Nor were mutineers like Charles Weller simply soldiers who had lost faith in the cause. “Our Army has not gained a decided victory since 61...Still I feel like seeing the thing through and have no wish to leave the Army until the rebellion is at an end.”<sup>115</sup>

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<sup>113</sup> Eb Allison to Dear Brother, Camp near Murfreesboro, TN, 4 March 1863, Allison Collection, GLC03523.24.38, .40, GLC.

<sup>114</sup> Lancaster Thomas to Dear Sister, 15<sup>th</sup> Pennsylvania Cavalry, Nashville, Tennessee, 4 January 1863, CWMC, USAMHI; Eb Allison to Dear Brother, Camp near Murfreesboro, Tennessee, 25 February 1863, Allison Collection, GLC03523.24.44, GLC.

<sup>115</sup> Charles F. Weller to Dearest Kate, near Murfreesboro, TN, 7 June 1863, Weller Letters, CWMC, USAMHI.

Of more significance, the three soldiers' voices reveal that the Anglo volunteer's ideas of "Union" and "regiment" were, in effect, synonymous. Thomas conflated accepting the Republic's "demands" on its citizen-soldiers with the expectation that "things" in the Regiment—like the exercise of his soldier rights—would be "organized again." Allison, although in less explicit terms, sensed that his conviction to fight on towards final victory rested to a degree on how the "public" judged the Regiment as a repository of good "order" and self-government. Here is a significant bridge between associational culture and the local communities who fought this national war. The Regiment was an extension of the home community and "matters" within it like officer elections and terms of service had to be in a "fair way" if the volunteers were to see "the thing through" and "whip" the enemies of civil society before returning to enjoy the fruits of peace.

Because in general, Northern "opposition to the war was open, organized, and active," critics had plenty of means and opportunities to air their various grievances. The mutineers of the 15th Pennsylvania joined the "many men" across the nation "who preferred to risk defeat at the hands of the enemy rather than submit to arbitrary government."<sup>116</sup> They ran such a risk because they believed that upholding the Union was predicated on upholding their soldier rights. And the subsequent reorganization and career of the Regiment indicated that in the long run their mutiny in defense of self-government held them more firmly to the cause and did not lessen their commitment to achieving final victory.

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<sup>116</sup> Samuel Elliot Morrison, *The Oxford History of the American People* (New York: Oxford University Press, 1965), 658–59.



The following chapter considers additional military protest actions by Anglo citizen-soldiers. These affairs ran from petitioning regimental officers, refusing orders, and resisting the arrest of a comrade to corporate protest and mutiny. A culture of soldier rights underpinned them all. Soldiers' home communities, through the exchange of correspondence, petitions to civic and military leaders, and by publishing accounts of mutinies in local and national newspapers, continued to play a vital, sustaining role. As in the mutiny of the Anderson Cavalry, protest actions clarify how military service had the capacity to bring habits of associationalism and self-government—the foundations of soldier rights—into conflict with the Army's organizational priorities and its need for uniform discipline through the chain of command.

CHAPTER III  
“GOOD AND INTELLIGENT ASSOCIATES”:  
ANGLO VOLUNTEERS, SOLDIER RIGHTS, AND UNION

In reviewing the testimony from a general court-martial, the officer serving as judge advocate took the opportunity to offer a cogent explanation for mutiny’s existential threat to the Army and its mission. “Mutiny as such can *never* be justified. *Men may not presume to decide upon the legality or propriety of their orders or of the conduct of their superior officers*—when that power is conceded there is an end of Military discipline.”<sup>1</sup> The Anderson Cavalry’s mutiny offers a pointed challenge to this outlook. Membership in the Cavalry was the basis of the mutineers’ terms of service and their rights to election, selection, and alienation. And upon these soldier rights they judged the propriety of their organization and the legality of their officers. Their military protest action was not in fact the end of military discipline. It strengthened the Regiment for the long term and recommitted the volunteers to the Union cause. It could not have succeeded without crucial support from citizen allies in Pennsylvania. Far from never being justified, military protest actions had the potential to bind cause and comrades more closely.

Consideration of additional protest actions by Anglo volunteers provides further evidence of soldiers’ definition and defense of their rights. Yet, no two regiments

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<sup>1</sup> Proceedings and papers of the general court-martial in the case of Sergeant Andrew Jessup, 7<sup>th</sup> Kansas Cavalry Regiment, MM411, Court-Martial Case Files, RG 153 Records of the Judge Advocate, National Archives, Washington, D.C.. All general court-martial case files come from RG 153 unless noted otherwise. Subsequent references to previously cited cases will be by the defendant’s last name, e.g., Jessup court-martial. Emphasis added.

claimed exactly the same terms of service; rarely conceived of perfectly identical soldier rights. Because the existence of soldiers' rights rested on membership, and membership was first of all local, it engendered a politics of reciprocity by establishing what members of a regiment owed to the association and what it owed to them. The vigilance inherent to associational culture applied not only to fundamentals like alienation and election, but to terms of service including a regiment's tactical function, its length of service, and the soldiers' pay. Soldiers remained active participants in setting the terms on which they fought to defend the nation. As a corollary, they drew on practices of popular constitutionalism and self-government for the forms by which they exercised these rights. In this respect, they were not limited to the paths of redress offered through the Articles of War any more than were civilians restricted to constitutional procedures alone.<sup>2</sup> Their pledge of service to the national government—a solemn, consensual promise to defend the body politic—was carried out *through membership* in a martial organization of fellow citizens who came together on clear, mutually-agreed terms. Lest they accept tyranny, they could not allow the Army to flaunt the rule of law.

The Union Army's Articles of War, on the other hand, were in fact a punitive military code to maintain discipline and enforce obedience through corporal punishment and the military justice system. Yet the culture of associational self-government could not be completely extinguished and military protest actions are the evidence. Volunteers

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<sup>2</sup> "An excited populace protesting real or perceived grievances was an expected part of free government," Christian G. Fritz, *American Sovereigns: The People and America's Constitutional Tradition before the Civil War* (New York: Cambridge University Press, 2008), 300; Douglas Bradburn, *The Citizenship Revolution: Politics and the Creation of the American Union, 1774-1804* (Charlottesville: University of Virginia Press, 2009), 187-92; Larry D. Kramer, *The People Themselves: Popular Constitutionalism and Judicial Review* (New York: Oxford University Press, 2004), 25.

relied on them as extra-legal (illegal from the Army's point of view) tools to scrutinize and instruct the military authorities on policies and procedures that transgressed their soldier rights. Because the military law so severely constricted the civic life of the citizen-soldier any attempt to push back against its encroachment became an occasion of military protest. Therefore when disagreements arose about subjects traditionally within the orbit of volunteers' constitutions and by-laws (such as contract, commissions, discipline, and organization) they faced a choice: submitting to authority or defending their soldier rights. And choosing the latter meant facing arrest or worse after they employed the ordinary forms of associational governance (like meetings and petitions) or extraordinary ones (including resisting punishment or mutiny).

Manipulation of their soldier rights, however, threatened the most immediate realm of the public welfare. In the words of constitutional scholar Christian Fritz, threats to the common good "justified the people in taking steps to redress practices inconsistent with the constitution."<sup>3</sup> Associational culture's web of membership and self-government were how citizen-soldiers constituted their regiments. When those pillars were threatened, so was the welfare of their organization. Moreover, defending the civic welfare in the ranks went hand in hand with defending the Union. The citizen's most basic duty was to defend the polity because it was the Union that shielded self-government.

Although these episodes were ignited by the local concerns of soldiers, they could quickly involve outsiders, whether the Army high command, civil government, or citizen allies. In some cases, these examples of mutiny became occasions when the

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<sup>3</sup> See Fritz, *American Sovereigns*, 287-88.

constitutional powers of national and state authorities, held in delicate tension by federalism, came into open conflict. Support from the home front played a familiar role as well, although not always to the degree it did in the Andersons' mutiny. Because of these developments, mutinies became some soldiers' way of preserving, as an agent of the common good, the Union they fought to protect.

***“Our Time Is Out!”: Soldier Rights, Calendars of Service, and the Mutinies in the 2<sup>nd</sup> and 9<sup>th</sup> New York Infantry Regiments***

The Anderson Cavalry mutinied, in part, over the fear that its guarantee of headquarters service would not be met. As late as 1864, soldiers faced losing the tactical role that had been promised their regiments by the Army. Ahead of Grant's Overland Campaign, the 21<sup>st</sup> Pennsylvania Cavalry was one such unit. That summer they were “dismounted, and changed into an infantry organization.” Hometown papers reported the “order for the change caused great indignation among the officers and men.”<sup>4</sup> Concerns about changes in tactical role, however, appear to have been fairly rare.

Of much wider extent and more serious concern was the risk soldiers ran by the Army extending their duration of service. A right of selection, as well as loyalty to both nation and state, complicated questions about the length of service. When enlistees joined a local company during the Civil War they usually rendezvoused with other companies from their state at a common training ground. Sometimes independent companies languished for months at these training areas waiting to be associated with a

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<sup>4</sup> Adams *Sentinel* (Adams County, Pennsylvania), 7 June 1864. According to Samuel Penniman Bates, *History of Pennsylvania Volunteers, 1861-5 Prepared in Compliance with Acts of the Legislature* (Harrisburg, PA: B. Singerly, State Printer, 1871), 5:79, in October of the same year the regiment was remounted and finished the war as cavalry. If the change caused great exaltation is not reported.

regiment and mustered into national service. Furloughs might be promised then revoked as news of imminent deployment came and went. Pay and bounties could go uncollected until muster was completed. Yet, in the soldier's mind because he was subject to military discipline and physically separated from home and community during this limbo he was nevertheless fulfilling his duty and it should count against his promised time in service to his country.

These tensions remained throughout the conflict, but they particularly afflicted Union forces for the first time on a wide scale after the First Battle of Bull Run (21 July 1861), notably in mutinies by two Empire State regiments, the 2<sup>nd</sup> and 9<sup>th</sup> New York. Both regiments drew their recruits predominantly from the state's largest cities, young men reared in associational culture and the antebellum public sphere. The members of the 2<sup>nd</sup> New York came from Troy, Rensselaer's county seat on the eastern bank of the Hudson River. In 1860 it was the state's fifth-largest city with 39,000 citizens busily engaged in the commerce between the Erie Canal and New York City. It was also one of America's early centers for the industrial production of iron. Enlistments for the "Troy Regiment" came forward from the city's fire department, its volunteer marching band, the Moulders' Association, and the Troy Young Men's Association. Under New York's enlistment act of 14 April 1861, they mustered into state service for two years in late April and into national service for a *two-year* term on 14 May, rather than the more widespread three-year term among volunteer regiments. A portion of the regiment saw action during the skirmish at Big Bethel, Virginia, on 10 June before they were transferred to Hampton Roads on 5 August. During these early months considerable

disorganization dogged the regiment. The men were obliged to elect a different colonel (their first choice failed to obtain a release from the Regular Army); tardy medical examinations forced the discharge of 118 men; countervailing marching orders fueled doubt about their mission. And this was in addition to gloom brought on by news of the defeat at First Bull Run on 21 July.<sup>5</sup>

The men of Troy encamped the remainder of the summer near Newport News about thirteen miles from two other Empire State regiments at Fortress Monroe: the “National Guard Zouaves” in the 10<sup>th</sup> New York and “Hawkins’s Zouaves” of the 9<sup>th</sup> New York. The latter regiment would be the other principal in the mutinies to come. Attracting great attention and expectation among the public, both zouave regiments organized in New York City. Although they included their share of working-class and immigrant soldiers, most of their soldiers were professional, middle-class men. According to the 10th New York’s regimental history,

At no time was there any difficulty in obtaining men; the recruits came singly, or in squads of three or four or more, brothers or friends, all determined to enlist, and if possible to go in the same company or regiment. Each company thus, to a certain extent, represented so many homes and firesides bound together by friendships of years’ standing and united in what was, to all of them, a just and holy cause.

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<sup>5</sup> Nathaniel Bartlett Sylvester, *History of Rensselaer Co., New York: With Illustrations and Biographical Sketches of Its Prominent Men and Pioneers*. (Philadelphia: J. B. Lippincott, 1880), 74–76; information on associations from the *Troy Daily Whig*, 14 May 1863.

In a way similar to the 15th Pennsylvania Cavalry, these recruits of 1861 formed themselves around an existing cadre: the volunteer military companies that had incorporated themselves in 1860.<sup>6</sup>

There in the country's largest metropolis, associational culture strengthened ethnic and religious ties. At the same time, common political and civic interests among like-minded citizens produced all manner of incorporated bodies to carry out numerous public projects.<sup>7</sup> Both regiments' official histories devote attention to these voluntary organizations that grew up before the war. Like in Pennsylvania, small circles of friends and business colleagues or extended family members responded to the crisis atmosphere in 1860 to call public meetings and pass resolutions pledging to seek official incorporation as military companies. They then commenced drilling, raising funds for equipment, and eventually electing officers.<sup>8</sup> In the case of the 9<sup>th</sup>, that activity gave rise to its antecedent prewar volunteer company, the "New York Zouaves." The wartime regiment's historian begins his tale of the 9<sup>th</sup>'s exploits by including the story of the "Old Company." Delineating the matrix of self-government and membership that characterized associational culture he explains:

The organization was, to the core, democratic, and yet an unbending despotism, the despot being the laws and regulations which were impartially and justly

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<sup>6</sup> *The Union Army: A History of Military Affairs in the Loyal States, 1861-65* (Madison, WI: Federal Publishing Co., 1908), 2:54-56; Charles W. Cowtan, *Services of the Tenth New York Volunteers, National Zouaves, in the War of the Rebellion* (New York: Charles H. Ludwig, 1882), 14. Of course, the Bernard Glock Letters, New York Military Museum and Veterans Center, Albany, that run from 1862-1864, indicate that the 9<sup>th</sup> at least had its fair share of some the city's German Americans.

<sup>7</sup> Mary P. Ryan, *Civic Wars: Democracy and Public Life in the American City during the Nineteenth Century* (Berkeley: University of California Press, 1997), 81.

<sup>8</sup> Cowtan, 12-13; Matthew J. Graham, *The Ninth Regiment, New York Volunteers (Hawkins' Zouaves)* (New York: E.P. Coby & Co., 1900), 23, 32, 37-38.



construed. For the enforcement of orders there was no military code to fall back upon. The authority for all action rested solely upon the voluntary consent and loyal approval of the governed.<sup>9</sup>

The tension between democracy and despotism yielded self-government. In it those opposing forces were held in balance through the members' submission to, and creation of, the rule of law. He noted the absence of external regulations and statutes—like the Articles of War—with pride. They were an awkward fit for citizen-soldiers habituated to authoring the laws under which they lived. The regiment's history deliberately included its constitution and by-laws (all twenty-three articles). Article III covered the “application for membership” that enacted an inherent right to selection on the part of members. Article IX provided for the election of company officers at one of the monthly meetings. Articles XII and XIII laid down specific fines for absences and sloppy uniforms and kit. Three absences in a row meant expulsion. Article XVI laid out the election and duties of the civic department, citizen members who handled the equivalent of an army's judge advocate, quartermaster, paymaster, and commissary roles. Men in the company attending these meetings, offered resolutions, and participated in debate. Articles XVII and XIX provided for the operation of a court-martial that could sentence members with fines or expulsion. Finally, Article XXII stipulated that, “These by-laws shall not be altered or changed, except by a two-third vote of the whole corps.” Members' approbation of these associational rules flowed from their role in creating

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<sup>9</sup> Graham, *The Ninth Regiment*, 21–22.

them, the “heart of true self-government.”<sup>10</sup> Associational life truly was a microcosm of American constitutionalism.

The New Yorkers garrisoning posts like Fort Monroe on the Virginia peninsula, however, had a diminishing sense that they had control over anything. It began with the daily drudgery of garrison duty. They felt increasingly like they were living under the thumbs of the Articles of War and the Regulars (the long-service professional soldiers of the United States Army) who drilled them. Only recently removed from a public culture of self-government, many of the New Yorkers recoiled at submitting to the authority of men they regarded as strangers.<sup>11</sup> By late July 1861 the weeks of confinement to their garrisons with its regimen of drill, inspections, and fatigue duty had begun to breed discontent. Life was a far cry from their initial notions of active service on the battlefield. Courts-martial from this period in the 10<sup>th</sup> New York abounded with instances of individual soldiers simply walking off to get something to eat when their company officers ordered them to fall in for drill. Other soldiers often found themselves on work details ordered about by Regular non-commissioned officers. In charge of a garrison police (i. e., refuse and debris cleaning) detail, Corporal James Leary of the 3<sup>rd</sup> U.S. Artillery ordered Private James McMahon of the 10<sup>th</sup> New York to get to work moving some dirt. McMahon stood by silently until the corporal grabbed him and threatened to break a shovel over his head. McMahon demanded to be released, finally

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<sup>10</sup> Graham, *The Ninth Regiment*, 26–31; William J. Novak, “The American Law of Association: The Legal-Political Construction of Civil Society” *Studies in American Political Development* 15 (January 1, 2001), 174.

<sup>11</sup> On the interface between volunteers and Regulars in the Union Army, see Clayton R. Newell and Charles R. Shrader, *Of Duty Well and Faithfully Done: A History of the Regular Army in the Civil War* (Lincoln: University of Nebraska Press, 2011), 39–63.

retorting, “Go to hell! I will do what I like God damn you.” The volunteer had chaffed at being ordered about as an automaton. During the ensuing court-martial he questioned Leary: “Did I not want you to *let me* pick up the dirt?”<sup>12</sup> On the surface this small incident looks like mere aversion to physical labor. But the citizen recently in uniform sought a measure of consent in any duty he performed. Of the greatest import was his revulsion at submitting to orders from a man with whom he had no ties of association.

The collision of associational culture with the realities of service and military law created the circumstances for the protests in the 2<sup>nd</sup> and 9<sup>th</sup> New York. Their specific disputes with the Army concerned two violations of their service terms. They had not been paid as promised and they were held beyond their calendar of service. What today appear as species of bureaucratic incompetence or administrative lassitude were also in part the result of the exigencies of the moment. As needs arose and problems presented themselves, politicians and generals crafted and implemented the procedures and methods to create the United States’ largest military force to that point in its history. As surveyed in Pennsylvania in the previous chapter, much was ad hoc and idiosyncratic. For example, volunteers in several companies of the 4th Maine mutinied in September 1861 when they were not mustered out after three months of national service. Their erroneous “supposition” had resulted from an “informality in mustering them into

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<sup>12</sup> Proceedings of general courts-martial in the cases of Privates Edward Moran, James McLean, and James McMahon, 31 July 1861, Fortress Monroe, Virginia 10<sup>th</sup> New York, KK866, Court-Martial Case Files, RG 153 Records of the Judge Advocate, National Archives, Washington, D.C.

service.”<sup>13</sup> Thus, what were merely extemporaneous measures looked to volunteers like attempts to subvert their soldier rights.

Slow pay was an especially persistent and pernicious influence that sapped the morale of even the best regiments. It turned the thoughts of an Anglo regiment towards mutiny in April 1862. A sympathetic officer observed his men had been “six months in the service and no pay, many of them with families suffering for want of the money.”<sup>14</sup> Signing their regiment’s muster roll initiated a contract between the soldier and the government. Under Army regulations, a regiment’s pay was scheduled to be disbursed every two months. More often than not paymasters arrived late through no fault of their own; delayed because of bad weather, transportation mishaps, or Confederate cavalry.<sup>15</sup> Endemic delays to the delivery of pay added to the Paymaster Department’s alleged inefficiency and corruption that made it reviled among many of the Union Army’s volunteers. For some soldiers theft of government property or pillage of civilians—more

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<sup>13</sup> William E. S. Whitman and Charles H. True, *Maine in the War for Union: A History of the Part Borne by Maine Troops in the Suppression of the American Rebellion* (Lewiston, ME: Nelson Dingley, Jr. & Co., 1865), 87-88.

<sup>14</sup> Edward Longacre, ed., “Chaos Still Reigns in this Camp: Letters of Lieutenant George N. Bliss, 1st New England Cavalry, March-September 1862,” *Rhode Island History*, vol. 36, no. 1 (Feb. 1977), 23 (15-24); Stephen J. Ramold, *Baring the Iron Hand: Discipline in the Union Army* (De Kalb: Northern Illinois University Press, 2010), 278. See also, Francis Reed of the 7<sup>th</sup> Pennsylvania Cavalry, complained, “We have not received any pay nor do we know we will get any,” Reed to [parents], 24 March 1862, Nashville, Tennessee, Francis W. Reed Letters, *Civil War Times Illustrated* Collection, USAMHI.

<sup>15</sup> Charles Howard True, “Civil War Incidents” in *War Papers Read before the Commandery of the State of Maine, Military Order of the Loyal Legion of the United States* (Wilmington, NC: Broadfoot, 1992 [1915]), 282-87; Revised Regulations, Article XLV, nos. 1338-39, *Revised United States Army Regulations of 1861, with an Appendix Containing the Changed Laws Affecting Army Regulations and Articles of War to June 25, 1863* (Washington, D.C.: United States War Department, Government Printing Office, 1863), 351.

common the farther Union troops penetrated into Confederate territory as the war went on—became a means to surviving nonexistent pay.<sup>16</sup>

The burden of slow pay was not these soldiers' only heartache. From the beginning of New York's enlistment efforts, confusion and chaos could result from state recruitment policies. On occasion constituent companies of particular regiments mustered in for varying lengths of national service. Acknowledging the national government's requests in August 1861 to retain three-month companies, the state enforced uniformity and by fiat extended them for two years of Federal service. For example, men in the "First Buffalo" regiment—raised in the city of the same name—had been mustered by companies into state service for two-years between 1 and 10 May 1861. Afterwards they were formally assembled into a regiment as the 21<sup>st</sup> New York. But their national service ran for only three months beginning on 20 May 1861. At the request of the national government, on 2 August 1861 Special Order No. 324 of the State of New York directed the 21<sup>st</sup> New York would continue in United States service for the remainder of their state enlistment. Similar special orders had the same effect on other New York regiments.<sup>17</sup>

On the basis of similar circumstances, twenty-eight zouaves in the 9<sup>th</sup> New York began by petitioning their colonel on 10 August. Abiding by the avenue of appeal

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<sup>16</sup> An authoritative discussion of the organization and function of the Pay Department is found in Newell and Shrader, *Of Duty Well and Faithfully Done*, 100–02; for the opinions of volunteer soldiers about the paymasters, see Ramold, *Baring the Iron Hand*, 278.

<sup>17</sup> Colonel W. F. Rogers, 21<sup>st</sup> New York to Adjutant General of the United States Army Lorenzo Thomas, 13 April 1863, in the papers and proceedings of the general court-martial of Sergeant Gustave Seiffart, et al., 20<sup>th</sup> New York, NN63, Court-Martial Case Files, RG 153 Records of the Judge Advocate, National Archives.

provided in the Articles of War, they sought interposition on their behalf. They delivered a written remonstrance citing lapsed pay and the extension of their national service without their consent. They refused “to do duty longer” until their grievances were satisfied. Accordingly, the next day additional men simply “refused to turn out for inspection.”<sup>18</sup> Arrests and close confinement followed for them as well.

While incarcerated the soldiers tendered a statement of grievances to Major General Benjamin Butler (a volunteer general commanding the post where they were confined) on 12 August. Its purpose was to “ascertain the cause” of “not getting moneys dues [*sic*] us, that the Government could pay, and had not, [and] as yet refused to pays [*sic*].” The volunteers in the 9<sup>th</sup> New York also saw evidence of foul play in informal mustering practices. They deplored being “held for two years” by the national government since they had never been assembled to sign a new muster roll past their initial three months of Federal service. Butler reported in a letter to Major General Winfield Scott, general-in-chief of the Army, “I think the whole trouble has arisen from...discontent because they are not paid” and from “want of proper clothing.” Anxious that mutinies over pay were spreading to other regiments and troubled that a number of companies across three New

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<sup>18</sup> Petition to Colonel Rush C. Hawkins, 9<sup>th</sup> New York, Camp Butler [Newport News, Virginia], 10 August 1861 in the papers and proceedings of Private Richard Vandenberg’s general court-martial, II448, Court-Martial Case Files, RG 153 Records of the Judge Advocate, National Archives, Washington, D.C.; Major General Benjamin Butler to Lieutenant-General Winfield Scott, 13 August 1861, Fortress Monroe, Virginia, *The War of the Rebellion: A Compilation of the Official Records of the Union and Confederate Armies*, 128 vols. (Washington, D.C.: Government Printing Office, 1880–1901), ser. 1, vol. 51, 1:447 (hereafter cited as *OR*).

York regiments “have served more than three months without any pay,”<sup>19</sup> Butler gave little credence to soldiers’ distress about their calendar of service.

Instead, Butler blamed erroneous reports in the *New York Times* that had led the men to believe they would only be three months in national service. The absence on recruiting and detached service of six officers in the 9<sup>th</sup> New York (including the colonel and lieutenant colonel) probably allowed such wishful thinking to go unchecked.<sup>20</sup>

Unwilling to accept the volunteers’ stated grievances against their soldier rights, *Harper’s Weekly* later blamed the mutiny on the soldiers electing weak, malleable company officers.<sup>21</sup> This charge is unwarranted. In the context of self-government, elections would have produced officers more cognizant of the concerns of the men and likely more willing to defend their soldier rights. As a negative proof of this point, the men took matters into their own hands while there were so few officers in the regiment—a situation not unlike that faced by the Anderson Cavalry in 1862.

Although the zouaves followed procedure by appealing to their colonel, they did not wait for the proceedings of a court-martial and they went over his head by involving Butler as well. Thus, it was military law that contorted the New Yorkers’ exercise of

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<sup>19</sup> Memorial by J. Frank Keeghan, D.L. Staye, and R. Van Der Burgh addressed to Major General Benjamin Butler, II488, Court-Martial Case Files, RG 153 Records of the Judge Advocate, National Archives, Washington, D.C.; Major General Benjamin F. Butler, Headquarters, Department of Virginia, Fortress Monroe, Virginia to Major General Winfield Scott, General-in-Chief, 13 August 1861, *OR*, ser. 1, vol. 51, 1:446-47.

<sup>20</sup> Captain Richard Henry Morris, 31 July 1861, Camp Butler [Fortress Monroe, Virginia], 9<sup>th</sup> New York, Richard Henry Morris Letters, Special Collections, New York Military Museum and Veterans Center, Albany.

<sup>21</sup> *Harper’s Weekly*, 6 September 1861. Major General Benjamin Butler to Lieutenant-General Winfield Scott, 13 August 1861, Fortress Monroe, Virginia, *OR*, I, XLI, 1: 447, attributed the soldiers’ interpretation of their contract to a spurious report in the *New York Times*.

their procedural soldier rights into illegal challenges to authority. The justifications offered by the mutineers under the language of “government,” “just demands,” and “due attention” not only echo Eb Allison’s claim that “ordinary attention” to the Andersons’ organization would have staved off protest, but point back to the most fundamental practices of self-government in America as outlined in the introduction.

Mutinous action had also enveloped the nearby 2<sup>nd</sup> New York on 13 August. The soldiers in the “Troy Regiment” also submitted a letter of grievance to their colonel. They wanted to know why they had not been paid since their enlistment three months prior, how he should expect them to take care of their families since they had no pay to remit and, given this state of affairs, if the colonel might not allow them to return home the next day. They realized their New York *state* enlistment ran for two years, but they claimed their three months of *national* service would be up in twenty-four hours.<sup>22</sup> Unfortunately, while the first two grievances had some legitimate basis, the third did not. The regiment’s official history proposed that after seeing three-month national service regiments from New York decamp, the men from Troy convinced themselves that home beckoned as well. Yet, at his general court-martial the petitioner Zalmon Van Ness explained that “it was reported to me that we might [be] in the State service for two years, but that we could not be turned over to the United States for that [length of] time.

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<sup>22</sup> Petition of Private Zalmon Van Ness and nine others in Company A, 2<sup>nd</sup> New York to Colonel Joseph B. Carr, “on or about” 13 August 1861, Camp Butler, Newport News, Virginia in the papers and proceedings of Zalmon Van Ness’s general court-martial, 2<sup>nd</sup> New York, II448, Court-Martial Case Files, RG 153 Records of the Judge Advocate, National Archives, Washington, D.C.. Other troops asserted their service had ended as well. In the eyes of the Army, sixty-two privates and non-commissioned officers of the 2nd Maine mutinied after “falsely alleging they are no longer in the service of the United States,” Major General George B. McClellan to Lieutenant-General Winfield Scott, 14 August 1861, Washington, D.C., *OR*, ser. 1, vol. 5, 561.



I enlisted with that understanding.”<sup>23</sup> It would appear that like in the 4<sup>th</sup> Maine, informalities in recruiting and mustering volunteers produced citizen-soldiers who believed advantage had been taken of them.

When 14 August passed with no information concerning their release from Federal service, these dissenting soldiers from Company A stacked their arms on the morning of 15 August, saying “Our time is out!” Like the mutineers in the Anderson Cavalry, it signaled they were “determined” to literally hold their service to the Union in abeyance beyond what their soldier rights strictly stipulated; in this case their three months of national service. After the mutineers skipped reveille and drill that morning they were escorted from camp and interned in Fort Calhoun on the Rip Raps, an artificial island at the entrance to Hampton Roads, Virginia.<sup>24</sup>

Although classified by the military as mutiny or mutinous conduct, when the mutinies by New York regiments in 1861 are placed in the contexts of associationalism and the reciprocities of soldier rights, they fit into the long Anglo-American tradition of the people’s role in “scrutinizing governments.”<sup>25</sup> Distressed by their regiment’s disorganization, the soldiers of Troy asked to be apprised of the “policy and intentions” of the “Government.” Claiming the welfare of the “rank and file” had been undermined by the failure to issue pay, they felt obliged to “safely” ask “what government (if any),

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<sup>23</sup> Closing statement of Private Zalmon Van Ness, 2<sup>nd</sup> New York, papers and proceedings of Zalmon Van Ness’s general court-martial, 2<sup>nd</sup> New York, II448, Court-Martial Case Files, RG 153 Records of the Judge Advocate, National Archives, Washington, D.C.

<sup>24</sup> Testimony of 1st Lieutenant C. Francis Temple and First Sergeant Sylvester Wheeler in the papers and proceedings of Zalmon Van Ness’s general court-martial, 2<sup>nd</sup> New York, II448, Court-Martial Case Files, RG 153 Records of the Judge Advocate, National Archives, Washington, D.C.

<sup>25</sup> Fritz, *American Sovereigns*, 18.

State or Federal, now has a right to demand our services.” The petitioners clearly believed that the national government had voided the bond of reciprocity with its citizen volunteers. They insisted that only “proper attention to our just demands” could possibly renew those ties between soldiers and civil authority. In the minds of the New Yorkers and the Andersons, confidence in the utility of continued sacrifice for the national cause was related in direct proportion to the proper, ongoing organization of their state regiments. The men of the 2<sup>nd</sup> New York even suggested that it might be prudent to explore a different path toward serving the cause. They reminded their colonel that “should it be necessary for us to be mustered out of service” and “if due respect to condition of our family relations will admit of it, we will again enter a new regiment, under your command.”<sup>26</sup>

In fact, the volunteer officers called to adjudicate these court-martials were quite sensitive to the bedrock constitutional issues. A curious pattern is stamped on the lengthy series of court-martial records documenting the mutinies. Later in the war mutinous soldiers were increasingly tried collectively for reasons of expediency. At this early date, each man in the 2<sup>nd</sup> and 9<sup>th</sup> New York received his own trial. But then another divergence appears. The trials in the 2<sup>nd</sup> New York handed down harsher sentences and proceeded along standard lines using witness testimony. In these trials only a handful of volunteers received reductions of sentence by the reviewing officer. In the 9<sup>th</sup> New York, however, strict courts-martial gave way to a process more reflective of associational

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<sup>26</sup> Petition of Private Zalmon Van Ness and nine others of Company A, 2<sup>nd</sup> New York to Colonel Joseph B. Carr, “on or about” 13 August 1861, Camp Butler, Newport News, Virginia, papers and proceedings of Zalmon Van Ness’s general court-martial, 2<sup>nd</sup> New York, II448, Court-Martial Case Files, RG 153 Records of the Judge Advocate, National Archives, Washington, D.C.

culture. Several of the trials called no witnesses for the prosecution. Each accused soldier simply presented an oral defense on his own behalf and was found guilty. Officers from the other New York regiments stationed at Newport News composed the entirety of the panels. In writing they requested Major General John E. Wool, an officer of the Regular Army commanding their division, for clemency on behalf of each soldier. A New Yorker himself, Wool promptly remitted the entire sentence and ordered the soldier returned to his regiment.

The trials in the 9<sup>th</sup> New York turned official proceedings into fora that citizen-soldiers used to articulate specific violations of their rights to service terms, timely pay, and their grievances. The institutional power of the Army was leveraged, through the mechanism of the court-martial, to arrive at verdicts that did justice to the letter of military law while recognizing the validity of citizen-soldiers' complaints. These particular volunteer soldiers and officers used other components of the military justice system to their own ends. It illustrates the basic reality of self-government carried on through associational culture. Regimental association, state affiliation, and community led to a reconfiguration of the Army's rules of jurisprudence that more closely hewed to the system of penalties for misbehavior common to antebellum volunteer companies. In this way, officers and men together negotiated a verdict on the mutiny—among Hawkins's Zouaves, at least—that acknowledged the legal and institutional authority of the Army without compromising the soldier rights and citizen voice of the volunteer.

Evidence of this sort of citizen-soldier collaboration in the interstices of military regulations was a wartime reality, but it rarely appears in the records (for good reason):

running afoul of regulations meant loss of rank, pay, even a court-martial. Nevertheless, individual examples can be found from time to time. Towards the end of 1863 a Connecticut soldier wrote home proud of how he had corrected his regimental adjutant who had been ready to report him as absent without leave. Although his comrades had told to him to make haste and report himself present, this sergeant “knew I was all right, therefore did not trouble myself.” He presented his official furlough to the adjutant “when I got ready.” The officer quickly admitted his mistake and the soldier reported to his company without repercussion.<sup>27</sup>

***“That Is What We Call Soldiering”: Rights of Election and Selection Gauged Officers’ Fitness for Command***

Anglo soldiers did not engage in self-government only to protect rights like their calendar of service and proper pay. They exercised rights as uniformed legislators to check the illegitimate actions of their commanders. The potential for incompetence, sloth, and vanity among Civil War officers was legion. Making their voices heard concerning the fitness of officers inside their wartime regiments reflected antebellum practices of associational life. Fitness encompassed an officer’s intelligence and judgement, his physical bravery, and his application of discipline. It also considered whether the status of his associational membership gave him grounds to wield his authority. Rights of election and selection gave soldiers’ a lever to counter the weight of officers’ authority. They reinforced soldiers’ convictions that they should mock, petition, remonstrate, confront, and even mutiny, if an officer failed in his constitutional

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<sup>27</sup> Charles to Mary Griswold, Camp near Portsmouth, Virginia, 7 November 1863, 15th Connecticut, Griswold Family Papers, MSC 6158, New York Public Library.

responsibility mandated by the regulations to give *lawful* orders and to avoid *tyrannical or capricious* conduct.<sup>28</sup> Thus, these rights also strengthened soldiers' appeals for interposition from higher authorities, appeals sanctioned by the Articles of War. Despite the military protest actions below not exploding into mutinies, they nevertheless convey that volunteers believed soldiering required them to police the boundaries of the Army's legitimate authority as present in its officer corps. By so doing they carried on self-government, the Union's very *raison d'être*.

Soldiers did not necessarily have to resort to mutiny or personal confrontations. Depending on the scale of the officers' neglect, measured means could be used like shaming or mocking, to point out shortcomings in the organization's responsibilities to the men. For example, two lieutenants lounged in the shade while their routine wood-cutting detail stood at the edge of the woods outside Portsmouth, Virginia. The one hundred soldiers from the 15<sup>th</sup> Connecticut lacked sufficient tools and waited impatiently that August day in 1863. The officers had ordered the sergeants to take it from there but, according to Sergeant Charles Griswold, he "thought that [the officers' actions] a very good example." The sergeants promptly stood aside and ordered the corporals to lead the men in the chopping and hauling. But the corporals followed suit and also "sat down," letting "the men do as they liked." Griswold summarized the whole affair sardonically: "that is what *we call soldiering*." If officers were going to abuse their positions for personal leisure, Griswold and his fellow non-commissioned officers found

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<sup>28</sup> *Revised United States Army Regulations of 1861, with an Appendix Containing the Changed Laws Affecting Army Regulations and Articles of War to June 25, 1863* (Washington, D.C.: United States War Department, Government Printing Office, 1863), Article I, nos. 1-3.

a good-natured, but purposeful, way to chastise them for it. While he admitted the non-commissioned officers' conduct was not "proper" according to regulations, neither was the officers' according to the reciprocities of regimental membership. Griswold firmly believed that "if officers won't get decent tools and tell the men what to do and where to work," he was "not going [to] blame them for not working."<sup>29</sup>

Of course, officers who were not only occasionally lazy, but downright incompetent and a danger to their men's survival on the battlefield could be forced out by their men. Barely a week after their muster-in on 22 August 1862, recruits in the 133<sup>rd</sup> Pennsylvania expressed a "unanimous wish" for "a change in the command of our company" while still in their home state. The "members of Captain John M. Jones' Company" decided their second lieutenant, Francis M. Flannagan, "is not capable to discharge the duties required of him." It had fallen to Private Richard M. Jones "twice a day to drill the company which he does in a first rate manner." Such expressions of their membership rights echo those from the Anderson Cavalry.

The fifty-seven men of the company addressed these complaints in a public letter to Flannagan. They would be ill trained if he remained "*in office*" because "of your incapability to discharge the duties" of command. It was the "desire of the whole company" to "remove" him and to "elect a man who is thoroughly acquainted in the

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<sup>29</sup> Charles to Mary Griswold, Camp near Portsmouth, Virginia, 5 August 1863, 15<sup>th</sup> Connecticut, Griswold Family Papers, MSC 6158, New York Public Library, emphasis added.

knowledge of drill” to “fill the vacancy.”<sup>30</sup> Expressing their “wish” and “desire,” their letter hints that they likely had tent meetings like the Andersons had before deciding on their course of action. Convinced Flannagan should be ousted, they performed an act of remonstrance against incompetent authority. It exercised their just rights to select the men with whom they served and choose from that pool competent individuals to wield command.

When the lieutenant “answered in the negative,” the citizens in uniform turned to the popular constitutional tactic of interposition. They wrote letters of appeal to their colonel and to the governor of Pennsylvania, Andrew G. Curtin. They explained “certain grievances” to Colonel Franklin B. Speakman that they hoped he would rectify “for the sake of us.” When the volunteers called on Curtin as “the highest authority that a soldier can appeal to” they desired nothing less than the kind of proper attention eventually given to the 15<sup>th</sup> Pennsylvania Cavalry. He should “*interfere* on our behalf” and “remove our Second Lieutenant.” Both officials learned the basis of Flannagan’s incompetence and were instructed on how to resolve the matter. The subaltern had no inkling of proper

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<sup>30</sup> Ellis R. Williams and 56 other members of Company F to Lieutenant Francis M. Flannagan, [22 August 1862], emphasis added, 133<sup>rd</sup> Pennsylvania, Civil War Muster Rolls and Related Records, 14-4035 carton 81, RG 19 Records of the Department of Military and Veterans Affairs, Pennsylvania State Archives, Harrisburg (cited hereafter as PSA). According to data in Bates, *History of Pennsylvania Volunteers*, 4:274–75, Flannagan eventually made captain. The regiment suffered grievously in the assault on Marye’s Heights at Fredericksburg. Company F was in the van when Captain Jones was killed and their choice for lieutenant, Richard M. Jones, went missing in action, 4:264,.

drill but Private Jones, once a lieutenant in a three-month regiment and a “first class drill master,” would have “the company perfect in the manual of arms.”<sup>31</sup>

In this example the grand constitutional principle of interposition—most familiar in the public campaigns of remonstrance against the Alien and Sedition Acts that culminated in the Kentucky and Virginia Resolutions—is woven into the workings of associational governance. In 1798 James Madison declared that membership in the Union through the “compact” of the U.S. Constitution gave the states collectively a “right” to “interpose,” in order to preserve “the authorities, rights and liberties appertaining to them,” against the national government’s extension of “powers” beyond the “grants enumerated in that compact.”<sup>32</sup>

The Cambria County soldiers’ campaign, though obviously not perfectly congruent, operated on the same logic. Flanagan’s duties were measured by the rule of military law and his membership in the regiment. The members of the company stood on their “rights and liberties” of election and selection when they judged him wholly inadequate and asked him to step down. Failing that they abided by the Articles of War to appeal to their colonel. At the same time, by the conventions of interposition, they sought the force of the governor arrayed on their side. In this way their actions linked notions of associationalism, remonstrance, and interposition as procedural soldier rights that defend

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<sup>31</sup> Company F, Camp Chase to Colonel Franklin B. Speakman, 23 August 1862, and Company F, Arlington Heights to Governor Andrew G. Curtin, 26 August 1862, emphasis added, both in 133rd Pennsylvania, Civil War Muster Rolls, PSA. No records could be found of either Speakman or Curtin’s replies to these memorials.

<sup>32</sup> *The Virginia and Kentucky Resolutions of 1798 and ‘99 with Jefferson’s Original Draught thereof, Also Madison’s Report, Calhoun’s Address, Resolutions of the Several States in Relation to State Rights with Other Documents in Support of the Jeffersonian Doctrines of ‘98* (Washington, D.C.: Jonathan Elliot, 1832), 21.



foundational right of membership like selection and election. This all points back to historian Christian Fritz's analysis of interposition's legacy in the antebellum period. It "focused attention on whether the government was acting in conformity with the people's mandates in their constitutions." Elected officials, including volunteer officers, were the people's "servants, subject to election and dismissal" if they failed to be "open to instruction" and "directly responsible" to those they served.<sup>33</sup>

The vigilance of the soldiers in the 133<sup>rd</sup> Pennsylvania countered poor leadership, that if allowed to fester, could be ruinous for regimental organization. This reality seems especially clear in the case of the 10<sup>th</sup> New York Cavalry. The wartime diary of Private Asa Story opens a window on how his officers' collective failure to discharge their duties, and instead pursue petty internal politics, frayed the bonds of membership and provoked soldiers to resist military authority. Story's low opinion of his officers stemmed from their hypocrisy. In one company, the captain arrested his lieutenant without cause. Another captain, John Ordner, was a habitual drunk who murdered the camp sutler's clerk.<sup>34</sup> Story's own captain, Delos Carpenter, was arrested for drunkenness in February 1863. Carpenter, who had to read from the manual for mounted saber drill while instructing the company, was as inept as Flanagan. Worse, Carpenter was not only an incompetent officer, but also a cruel one.

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<sup>33</sup> Fritz, *American Sovereigns*, 193-94; Kramer, *The People Themselves*, 106-07; Kenneth M. Stampp, "The Concept of Perpetual Union" in Stampp, *The Imperiled Union: Essays on the Background of the Civil War* (New York: Oxford University Press, 1980), 28-9.

<sup>34</sup> Private Asa Story, 10<sup>th</sup> New York Cavalry, 26 July 1862, Asa J. Story Papers, Coll. 13848, New York State Library, Albany, NY (hereafter Story Papers); Colonel John C. Lemmon, 10<sup>th</sup> New York Cavalry, to President Abraham Lincoln, 1 November 1863, Series 1, General Correspondence, 1833-1916, Abraham Lincoln Papers, Library of Congress, Washington, D.C.

When Story missed inspection in January 1863 his lieutenant berated him and hung him by his thumbs to drive home the point. Story untied himself three times before the lieutenant reported him to the captain.<sup>35</sup> In exasperation, Carpenter bucked and gagged Story with his toes barely off the ground. But after being released from his punishment, the private still skipped company drill and stayed in his tent, as “I was so stiff and sore.” Camp discipline such as this became so typical for the eighteen-year old that he reported it in his diary as often as the weather.<sup>36</sup> While there were no regulations to govern petty infractions, these penalties inflicted on Story called public attention to lapses in his soldierly bearing and his offenses against *esprit d’corps*. Other more painful forms of physical punishment including bucking and gagging shamed soldiers even as it offended their identities as citizens endowed with self-control and personal independence. Yet, even volunteer officers believed the degree to which soldiers obeyed orders and performed their duties in camp translated to discipline in battle. Commanders wanted to create a culture of respect for authority, a commitment to the organization, and a sense of pride in wearing the uniform.<sup>37</sup>

All that aside, Story might have simply been a rambunctious adolescent, but he made a terrible soldier. His repeated run-ins with Carpenter stemmed in part from his ongoing horse thievery, foraging, shirking fatigue, skipping picket duty, and unauthorized

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<sup>35</sup> Story Papers, 11 September 1862, 3 January 1863.

<sup>36</sup> Story Papers, 24, 26, 27 January 1863.

<sup>37</sup> In the 32<sup>nd</sup> Ohio, the complete powerlessness engendered by bucking and gagging led its members to prefer a lengthy bout of knapsack drill if given a choice by their commander, Stephen J. Ramold, *Baring the Iron Hand: Discipline in the Union Army* (De Kalb: Northern Illinois University Press, 2010), 355-61; Reid Mitchell, *The Vacant Chair: The Northern Soldier Leaves Home* (New York: Oxford University Press, 1993), 6-14; E. Anthony Rotundo, *American Manhood: Transformations in Masculinity from the Revolution to the Modern Era* (New York: Basic Books, 1993), 19-20.

absences.<sup>38</sup> An antebellum company's by-laws would have dealt with his conduct through fines and then expulsion. But the Army could not afford to discharge a soldier for mere hooliganism. It had to set an example, and break him through discipline. That logic raised many volunteers' ire at corporal punishment taken too far.

Some soldiers bore the authority of their officers with quiet restraint in order to display manly self-control while others, like Story, took issue with the control wielded by their superiors, striking out with combative language or physical violence. As one historian rightly comments, "Men reared to be independent, to claim equality with every man, and to value individualism were now asked to respect hierarchy and to submit to the will of another." Soldiers questioned the legitimacy of the officer corps' authority because it transgressed the American civic values of personal independence and self-governance, as well as the equality tied up with their manhood. Submission to officers meant acceptance of servitude. Soldiers sometimes referred to their officers using a derogatory term "gentry." Dismissive of the respect due their commanders, they might make noise when addressed en masse, or undermine the chain of command when they refused to wear symbols of rank in or saluted their superiors lazily.<sup>39</sup>

Quite often, officers in the normal course of their duties would have to give orders to soldiers who might internalize a routine military order as a specific threat to the boundaries of their manhood; conflict and even violence often followed. The 10<sup>th</sup> New York Cavalry could easily have been under consideration when one historian explained,

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<sup>38</sup> Story Papers, 2 July, 8 July, 14 July, 17 July, 28 July, 4 August, 18 August, 29 August 1862.

<sup>39</sup> Lorien Foote, *The Gentlemen and the Roughs: Violence, Honor, and Manhood in the Union Army* (New York: New York University Press, 2010), 147, 148–49, 151–52.

“Because of soldiers’ attitudes toward authority, which were derived from their conception of equal manhood, automatic and consistent obedience to officers was never established in many regiments of the Union Army.”<sup>40</sup> That said, even in regiments where discipline was meted out, soldiers wanted it proportionate to the offense.<sup>41</sup> They raised intensifying levels of military protest action the closer camp discipline approached what one historian has termed “abusive punishment.”<sup>42</sup>

And that appears to be exactly what Carpenter doled out to Story and other men in Company G. In a typical fortnight Private Story earned a stay in a ten-by-fifteen-foot “sweat box” for refusing guard duty, followed by extra drill, being tied to a post (after confinement in the guard house), and finally more bucking and gagging.<sup>43</sup> Little wonder that Story roundly mocked his captain’s incompetence and cruelty with titles like “the King,” and “His Majesty.”<sup>44</sup> Life on Carpenter’s watch felt like living under tyranny: the slightest infraction brought sanction with extreme prejudice. On one occasion, in his telling, Story was “lectured for thinking I had any rights.”<sup>45</sup> Yet, this very remark belies the soldier’s conviction that he did possess rights of membership and he planned to

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<sup>40</sup> Foote, *Gentlemen and the Roughs*, 158, 154.

<sup>41</sup> Foote, *Gentlemen and the Roughs*, 174, says that genteel soldiers came to justify harsh measures against disobedience to quell the “rough” manhood of other soldiers they viewed as uncivilized and harmful to military order. This does not change the fact that no volunteers welcomed corporal punishment when it was directed against them. It was a sign of subordination or bondage that violated their free citizen identity, Ramold, *Baring the Iron Hand*, 363–68.

<sup>42</sup> Joseph T. Glatthaar, *The March to the Sea and Beyond: Sherman’s Troops in the Savannah and Carolinas Campaigns* (New York: New York University Press, 1985), 25-26, where he includes lashing men “to a spare artillery wheel for a day.”

<sup>43</sup> Story Papers, 2, 8, 12 July 1862.

<sup>44</sup> Story Papers, 11 September 1862, 3 January 1863

<sup>45</sup> Story Papers, 27 January 1863.

exercise them. For if he did not, he would be acquiescing in the subversion of republican government, the very reason the Union must be preserved and he was wearing a uniform. Justified by outlooks similar to the men of the 133<sup>rd</sup> Pennsylvania had about their competent officers as fit magistrates, Story drafted “a petition which is to be presented to the Colonel after the boys have signed it. It is to have Carpenter removed.”<sup>46</sup>

Carpenter did eventually resign, but not because of Story’s petition (if he ever produced it). According to the regiment’s official history, “the most intense partisan warfare” led “many of the enlisted men [to] range themselves with the contending factions.”<sup>47</sup> At the outset of its organization, two cliques formed over the fitness of Colonel John C. Lemmon. The “anti-Lemmon” officers, Carpenter among them, had their own convictions about the fitness of their commander and sought to remove him on charges of incompetence and old age. Although details are scanty, it all culminated in a near mutiny at Elmira, New York, in late 1862.<sup>48</sup> Captain W. W. Paige demanded that arms be issued from the armory for his company and Lemmon arrested for going over his head. This led a cabal of the Antis to “forge papers against” him. But these machinations failed and instead a dozen captains and lieutenants stood trial for mutiny in April 1863. Convicted and dismissed the service, their citizen benefactors and family, paralleling the Anderson Cavalry, petitioned on their behalf—in this case directly to

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<sup>46</sup> Story Papers, 30 September 1862.

<sup>47</sup> Noble D. Preston, *History of the Tenth Regiment of Cavalry, New York State Volunteers, August 1861 to August 1865* (New York: D. Appleton, 1892), 21.

<sup>48</sup> Preston, *History of the Tenth Regiment of Cavalry*, 21.

President Abraham Lincoln—for clemency. He in turn asked that Secretary of War Edwin M. Stanton reinvestigate.<sup>49</sup>

The outcome was not reversed, but the regiment's factionalism remains a startling example of the deep wells of self-government that citizen-soldiers brought with them into the service. In the 10<sup>th</sup> New York Cavalry, citizens arranged across the spectrum of rank believed it within their rights to judge the fitness of the officers arrayed over them, to resist the authority placed by the state in those commanders' hands, and to select new ones in their stead. If the 10<sup>th</sup> New York Cavalry was a regiment with officers conniving to oust their commander, it should come as even less surprise that its enlisted men would be invoking their rights of selection to remove a despised captain. The episode suggests the potential for self-government *ad absurdum* when soldier rights became unmoored from a reciprocal relationship of members' duties to preserve, protect, and perfect the association. It was for this reason that regimental self-government, if it were to be a centripetal force, had to be bound up with the larger meaning of Union. Otherwise, it had the potential to eviscerate the Army.

The factionalism that manifested itself in the 10<sup>th</sup> New York Cavalry and the associational rivalry inside the 15<sup>th</sup> Pennsylvania Cavalry were extreme manifestations of soldiers' claim to rights of selection and alienation. They were the basis for soldiers checking their commanders' conduct that verged on compromising Article 1 of the Regulations or their terms of service. In the enormous camps, extensive divisional

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<sup>49</sup> Colonel John C. Lemmon, 10th New York Cavalry, to President Abraham Lincoln, 1 November 1863; Judge Advocate Joseph Holt to Assistant Secretary of War Peter H. Watson, 24 October 1863; Lincoln to Secretary of War Edwin M. Stanton, 22 October 1863, all in Series 1, General Correspondence, 1833–1916, Abraham Lincoln Papers, Library of Congress, Washington, D.C.

marching columns, and expansive battlefields, however, Union soldiers also had plenty of contact with officers from other organizations.

At Harrison's Landing, Virginia prior to the Seven Days' battles in June 1862, Corporal William Gallagher of the 93<sup>rd</sup> New York faced a general court-martial for insubordination. After a strong shove for failing to comply with an order, he had exclaimed, "Don't do that, Lieutenant....I have had enough of that in the Army!" The lieutenant called for the guard and placed Gallagher under arrest. Before he could be restrained, Gallagher threw down his belts and cartridge box. Whether ready for fisticuffs or merely signaling passive resistance, he lamented, "This will cost me my Corporalship." A passing Regular Army major, G. O. Haller, witnessed Gallagher's disobedience and intervened. He also ordered the guards to take the man away. One of them, Corporal Joseph Lavoy, refused to assist. Major Haller shoved Lavoy aside, took his rifle, and struck Gallagher in the back with its butt. Gallagher reacted by grabbing a rifle from the hands of one of the other guards to defend himself. This prompted officers looking on to disarm him and, in the process, strangle him and punch him in the face.<sup>50</sup>

The record is silent about the order Gallagher refused or why. But he believed it was necessary in that moment to check the disciplinarian from his own regiment as well as the interloper from outside it. Judging by Gallagher's remark after his lieutenant's thrust, he knew the heavy weight of Army discipline and was willing to lose his rank to protest

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<sup>50</sup> Lavoy was tried immediately after Gallagher for conduct prejudicial to good order and military discipline, but was acquitted. The prescient Gallagher was indeed reduced to the ranks, forfeited ten dollars of his pay for three months, and spent thirty days under guard carrying a thirty pound pack from reveille to retreat, proceedings of general courts-martial, William Gallagher and Joseph Lavoy, 93<sup>rd</sup> New York, 11 June 1862, KK93, Court-Martial Case Files, RG 153 Records of the Judge-Advocate, National Archives, Washington, D.C.

the latest example. Haller not only escalated the affair, but also employed the harsh means that citizens connected with the Regulars. Such a tangible example of Army ways dominating his life in uniform drove Gallagher to strike back violently. The New Yorker only recoiled verbally against his own officer, but felt justified to use physical defense against corporal punishment from one who was not even a fellow volunteer.

Encounters across associational lines such as this were occasions when orders were given and received. Some soldiers might question, as Gallagher did, the legitimacy of an officer's authority. That is, his fitness for command relative to the volunteer's assumed right of selection. Associational thinking got some soldiers wondering what the consequences might be for them in an institution like the Army. Theoretically *any* officer (or non-commissioned officer if one was a private) had dominion over them. The Army seemed to present an ever-expanding circle of potential masters. The limited protections within military law aside, only extending the claims of their soldier rights into this no-man's-land of command could enlarge the soldier's small realm of personal independence.

***“We Will Serve in No Other”: The Power of Consolidation against the Right of Alienation in the 44<sup>th</sup> New York and the 2<sup>nd</sup> Rhode Island Cavalry***

The relationship of soldiers' right of alienation to the Army's power of consolidation encapsulated the military's fundamental tension between rights and duties. Neither were often used because they were radical, opposing responses to the inviolability of the volunteers' principle of association. Alienation offered soldiers' the potential to dissolve their regiment if their terms of service or fundamental rights risked violation through continued duty. Consolidation ensured soldiers' duty continued to the last full measure



regardless of the integrity of their association. A resort to either could represent an undoing of all the Union represented.

During the Civil War the Union Army consolidated regiments on an *ad hoc* basis. Two examples of consolidation that were opposed by soldiers through military protest actions occurred in the 44<sup>th</sup> New York and in the 2<sup>nd</sup> Rhode Island Cavalry (2<sup>nd</sup> RI Cavalry). For volunteers offering military service to save the Union, it was axiomatic to preserve the integrity of their local regiment as well. Self-government had not only an individual but also a corporate character. Perusing the *Official Records* indicates that plans for consolidation often arrived at the Adjutant General's office in the War Department after major battles from corps and army commanders intent on reorganizing their commands for increased operational utility. Affirming the sanctity of state affiliation, these requests typically emphasized that regiments "from the same State" would be assimilated into one organization. Francis C. Barlow's praise for the gallant officers and men from the 81<sup>st</sup> Pennsylvania consolidated to his command was unusual in this regard because he was colonel of the 61<sup>st</sup> New York. Benjamin Loan, a brigadier general in the Missouri State Militia (Union) expressed a more common attitude about

even consolidating men from the same state: it yielded soldiers who would subsequently perform only “unwilling service.”<sup>51</sup>

Indeed, Northerners doubted not only the utility of consolidation, but its wisdom. Historian Kenneth Stampp explains that during the ratification debates of the 1780s Antifederalists used “consolidation” as a watchword for their fears that the proposed Constitution would lead inexorably to “the reduction of the states to impotence in a perpetual Union.” The sovereignty of the states would be so reduced that they would be eventually prevented from even peacefully resigning from Union, that is “the remedy of secession would not be available to a state whose citizens found the new Union despotic.” If a consolidated Union could nullify states’ power to alienate themselves then the prospects for self-government dimmed as citizens fell under the sway of distant, centralized power. In the Antifederalist’s constitutional order the states should be bulwarks against overreach by the national executive or legislature.<sup>52</sup>

Even rumors of a potential consolidation could motivate citizen-soldiers to act preventatively to ensure their regiment’s cohesion. Volunteers in the 44<sup>th</sup> New York strove for several months to do just that. Eventually they asked their citizen allies to act

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<sup>51</sup> All of the following references are in *War of the Rebellion: A Compilation of the Official Records of the Union and Confederate Armies*, 128 vols. (Washington, D.C.: Government Printing Office, 1880), first series. Report of Colonel Francis Channing Barlow, 3 July 1862, XI, 2: 69-70; Brigadier General Ben. Loan to Major General Samuel R. Curtis, commanding St. Louis, Missouri, 26 February 1863, Kansas City, Missouri, XXII, 2: 124-25. See also Major General James B. McPherson to Brigadier General Lorenzo Thomas, Adjutant General of the United States Army, 1 August 1863, Vicksburg, Mississippi, XXIV, 3: 569; Major General William Tecumseh Sherman to Major General Ulysses S. Grant, 22 July 1863, Jackson, Mississippi, XXIV, 2: 531; War Department Special Orders No. 6, 10 April 1863, Lake Providence, Louisiana, XVII, 2: 590-91; Order of Battle for the Center Grand Division, Army of the Potomac, 23 December 1862, XXI: 929.

<sup>52</sup> Kenneth M. Stampp, “The Concept of Perpetual Union,” in Stampp, *The Imperiled Union* (New York: Oxford University Press, 1980), 18–20.

on their behalf. Nicknamed “Ellsworth’s Avengers” in tribute to the martyr Elmer Ellsworth, the regiment arose through the efforts of a public committee known as the Ellsworth Association for the State of New York formed at the state capital on 25 May 1861. According to the association’s constitution and by-laws it would seek to recruit “one man from each town and ward in the state” equipping them through a fundraising campaign orchestrated by local sub-committees. These sub-committees also selected recruits for their physique and their “moral character.” They promised recruits from “contiguous counties will be placed together to form companies” and non-commissioned officers would be elected, but that “at present” commissioned officers “will be selected from those volunteering by the officers of this Association.” The recruits arrived at Albany for rendezvous beginning on 8 August 1861.<sup>53</sup>

By October 1862 a sharply reduced “People’s Ellsworth Guards” was encamped at Sharpsburg after the Battle of Antietam. It had been held in reserve due to heavy combat losses during the battles of Hanover Court House, Gaines Mill, and Malvern Hill.<sup>54</sup> Now the Army proposed consolidation with another understrength regiment or an injection of fresh recruits to bring it up to proper size.<sup>55</sup> The veterans in the field would not

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<sup>53</sup> “People’s Ellsworth Regiment,” *Utica Morning Herald*, 17 August 1861; “The People’s Ellsworth Regiment,” *New York Times* (28 June 1861); Eugene Arus Nash, *A History of the Forty-fourth Regiment New York Volunteer Infantry in the Civil War, 1861–1865* (Chicago: R. R. Donnelley & Sons, 1911), 8–11, 13.

<sup>54</sup> “A Hero’s Avengers: Story of the Ellsworth Regiment, Forty-Fourth New York,” 26 May 1897, Marion *Star* (Marion, OH); Private Frasier Rosenkrans, in camp near the Chickahominy, to Frona Wheeler, 11 June 1862, 44th New York, Frasier Rosenkrans Letters, Civil War Miscellaneous Collection, USAMHI; Nash, *A History of the Forty-fourth.*, 103–06.

<sup>55</sup> Sergeant Orsell Cook Brown to Dear Sister, 3 October 1862, Sharpsburg, Maryland, 44th New York Infantry, Co. A, Orsell Cook Brown Papers (1861-1881), Collection Call Number: SC10598, New York State Library, Albany.

countenance amalgamating with a strange organization. They had enlisted with certain promises about the regiment's composition as well its organizational integrity. When these appeared at risk they immediately harnessed the power of the civilian arm of their self-governing military association to insist the Army abandon any plans for consolidation.

Two hundred Avengers addressed a petition to the Ellsworth Association on 1 October 1862. The New Yorkers claimed they had been promised that their regiment would contain men of "certain qualifications" for the advantage of "good and intelligent *associates*." The replacements who had begun to appear to fill the thin ranks<sup>56</sup>—lured by new, substantial bounties—concerned these veterans of the Seven Days Battle. Seeing recruits not held to the same standards as the founding associates was, "not only a violation of your agreement with us but an infliction of a great wrong to the original members." A "still greater wrong" was potential consolidation with another regiment "without the consent of the members" and a "violation of your said promises made to us." The petition was a remonstrance and a request for interposition: "We...appeal to you, to come to our aid and see that justice be done, and your promises...fulfilled."<sup>57</sup>

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<sup>56</sup> Brown to Dear Sister, 3 October 1862, Brown Papers, NYSL.

<sup>57</sup> Petition of the 44<sup>th</sup> New York to Hon. Committee of the People's Ellsworth, 44<sup>th</sup> Regt., NYSV, Sharpsburg, Maryland, 1 October 1862, Collection No. 5236, New York State Library, Albany, New York, emphasis added. See also the case of Corporal Patrick Davis in the 14th Independent Battery, New York Artillery, LL705, Court-Martial Case Files, RG 153 Records of the Judge Advocate, National Archives, Washington, D.C., September 1863, Davis, charged with mutinous conduct and exciting mutiny, encouraged his comrades to state publicly at a roll call on 10 April 1863, in camp near Falmouth, Virginia, that they would only serve in their present company (their original organization) and would refuse to sign the muster roll enrolling them into a new one.

The appeal of the soldiers swung their citizen allies into action. Recruiting notices went out and two new companies were recruited by 23 October. One of these was entirely composed of students from the Albany Normal School led by two of their professors. With these almost miraculous additions the regiment avoided consolidation. Even so, soldiers' belief in their right to choose their comrades remained strong. "The reception given the new companies was not very cordial as the old *members* manifested a disposition not to receive them into full fellowship until their metal had been proved."<sup>58</sup>

The federal nature of the Republic provided the logic and the tradition of raising volunteer regiments with state affiliation, which encouraged the local volunteerism that produced regiments like the 44<sup>th</sup> New York. The Avengers' distaste at even the prospect of consolidation explains how deeply intertwined regimental affiliation were the rights of selection and alienation. Furthermore their corporate solution to avoiding the stain of consolidation also reinforced the continuing close ties between home and camp. When the Army considered disrupting these webs of connection by combining several regiments, most Union soldiers still swallowed the bitter pill. But consolidation of regiments by the Army always carried the term's original, ominous connotations. Nowhere was this more true in the exceptional cases when regiments from *different* states were proposed for consolidation. In the aftermath of the 4<sup>th</sup> Maine's mutiny above, the Army proposed interstate consolidation as a punitive measure. One company was entirely broken up, its captain dismissed the service and both lieutenants resigned as a

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<sup>58</sup> Nash, *A History of the Forty-fourth*, 108.

consequence. Another ninety-seven of the mutineers were forced into the ranks of the 38<sup>th</sup> New York, a regiment in the same brigade. In its place an entirely new company was recruited; doubtless with no question about its three-year commitment.<sup>59</sup>

More egregious was the interstate consolidation foisted on troopers in the 2<sup>nd</sup> RI Cavalry in August 1863. Their determination that the choice of who they served with should not be divorced from the state flag they served under was a corollary to their regiment's self-governing nature. In this case consolidation was not employed as a remedy to combat loss or even as the punishment it was proposed to be by the department commander. Rather, it emerged from the politics of Federal control over Louisiana. In the end the Army did not get its way. Through remonstrance, mutiny, and their governor's interposition, the Rhode Island men preserved their soldiers' rights of organizational integrity, state affiliation, and selection.

Louisiana was the regiment's destination in March 1863 after being recruited in the summer and fall of 1862. But it remained a regiment in name only. Rhode Island's minuscule population struggled to contribute sufficient recruits. Some additional

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<sup>59</sup> Whitman and True, *Maine in the War for Union*, 88. Ironically perhaps, the 38th New York was itself consolidated down to four companies in December 1862. In June 1863 it amalgamated four companies from the disbanded 55th New York, Frederick Phisterer, *New York in the War of the Rebellion*, 3rd ed. (Albany, NY: J. B. Lyon Company, 1912).

volunteers were swept in from New York City and Boston (including sprinklings of immigrants) with bounties and bonuses.<sup>60</sup>

At that time Major General Nathaniel P. Banks, consummate Massachusetts politician and commander of the Army's Gulf Department, supervised much of Louisiana. The white Unionists there hoped cooperation with Federal forces might elevate them to political power in the Army and in the state's new government. Many were immigrants and recent settlers. Banks drew many of them into his orbit as allies against remaining Confederate sympathizers. In addition to appointing them to positions in the evolving military government, another Banks strategy for maintaining their personal loyalty was through commissions in the Union Army. One beneficiary was Harai Robinson, an erstwhile Confederate officer whom Banks put in command of the 1<sup>st</sup> Louisiana Cavalry Regiment (Union).<sup>61</sup> Robinson, who went on to make the most of his role as a provost marshal in 1864, made earning a field command merely a stepping-stone.<sup>62</sup>

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<sup>60</sup> "Incidents of the War," Cincinnati *Enquirer* (Cincinnati, OH), 26 June 1862, reports these recruits joining the 2nd RI Cavalry when actually they joined the 7th Squadron RI Cavalry, see Richard Mather Bayles, *History of Providence County, Rhode Island*, (Providence: W. W. Preston, 1891), 1:236. The regiment mustered in 21 November 1862, "Second Rhode Island Cavalry," Frederick H. Dyer, *A Compendium of the War of the Rebellion* (Des Moines, Iowa: The Dyer Publishing Co., 1908). Recruits could claim a forty-dollar bounty on muster-in and seventy-five dollars at discharge. Other broadsides offered as much as \$325 bounty, recruiting broadsides, Providence *Daily Post* and Providence *Herald*, 1862. Bayles, *History*, notes that the 2nd RI Cavalry departed for Louisiana with only two battalions instead of the establishment three, 236.

<sup>61</sup> Stephen V. Ash, *When the Yankees Came: Conflict and Chaos in the Occupied South, 1861-1865* (Chapel Hill: University of North Carolina Press, 1995), 109-11, 116-118.

<sup>62</sup> Jeffrey Norman Lash, *A Politician Turned General: The Civil War Career of Stephen Augustus Hurlbut* (Kent, OH: Kent State University Press, 2003), 170.

After the fall of Port Hudson on 9 July 1863 Banks devised a convenient remedy for the paltry enlistments into his Louisiana cavalry regiment. First, on 11 July he collapsed the 2<sup>nd</sup> RI Cavalry Regiment's eight understrength companies into four and peremptorily mustered out the excess officers.<sup>63</sup> Second, he manufactured a pretext for consolidating them into Robinson's regiment, claiming after the fact that the Ocean Staters' own officers had "acknowledged their inability to control" men who were "wholly worthless as soldiers." Therefore, only grafting them onto a reliable regiment could possibly reform them after numerous "depredations and robberies" for which two troopers had already been executed.<sup>64</sup>

Matters came to head on 29 August 1863 when the 1<sup>st</sup> Louisiana (Union) Cavalry arrived at the camp of the 2nd Rhode Island Cavalry for an unusual dress parade. Under Special Orders No. 209 of the Department of the Gulf issued five days earlier by General Banks, the Ocean State men were henceforth "transferred" to the Louisiana regiment and would be "assigned to companies" by its colonel. Upon the order being read, the Rhode Islanders erupted "instantaneously and as if by accord," in a Louisiana officer's words,

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<sup>63</sup> Special Orders No. 167, para. XIV, 11 July 1863 and Special Orders No. 168, para. II, 12 July 1863, Headquarters, Department of the Gulf, collected in *Annual Report of the Adjutant-General of the State of Rhode Island, for the Year 1863* (Providence, Alfred Anthony, Printer to the State, 1864), 9. The officers who remained demanded discharges from the Army and condemned in principle having to go before an examining board for a commission in the 1st Louisiana Cavalry (Union). After all, their governor had approved their commissions, Governor James Y. Smith to Secretary of War Edwin M. Stanton, Providence, Rhode Island, 4 September 1863, *OR*, ser. 1, vol. 26, 1:270.

<sup>64</sup> Major General N. P. Banks to Thomas M. Vincent, Assistant Adjutant General, Washington, D.C., 16 October 1863, *OR*, ser. 1, vol. 26, 1:272 (emphasis added). Banks initially sought to combine the Second with a regiment of Empire State cavalry because he claimed the regiment was "enlisted from New York chiefly." Yet, the men's words and actions during the mutiny certainly cast doubt on this assertion, *ibid.*



with “a tumultuous and general ‘No! No!’ ‘Rhode Island forever,’” rippling from “one end of the line to the other.”<sup>65</sup>

In spite of the verbal protest, Robinson oversaw the consolidation of the two organizations. He ordered the Rhode Island soldiers removed not only from their original regiment, but their companies as well. They were dismounted, arranged in files alongside those of the 1<sup>st</sup> Louisiana, and then literally amalgamated with them. That night, however, the Ocean Staters, renewed their protest and encamped apart from the Louisiana men. The next day, 30 August, Robinson surrounded the Rhode Islanders with his soldiers, bent on imposing the consolidation order. But “not a man moved.” Richard Smith and William Davis arose and boldly stated: “‘Colonel, we have made up our minds that as we enlisted in the 2<sup>nd</sup> Rhode Island Cavalry, we will, by God, serve in no other! We will not serve! Do as you like, but, by God, we won’t serve.” They concluded: “We belong to Rhode Island, and not to Louisiana!” That morning Davis and Smith died by firing squad on Robinson’s order. Summary execution finally brought the Ocean Staters to heel.<sup>66</sup>

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<sup>65</sup> Testimony of Lieutenant Colonel Harai Robinson, 1st Louisiana Cavalry (Union) to a military commission, Thibodeaux, Louisiana, 5 September 1863, *OR*, ser. 1, vol. 26, 1:262; testimony of Lieutenant Jules A. Masicot, 1st Louisiana Cavalry (Union) to a military commission, Thibodeaux, 6 September 1863, 2:266; Lieutenant Edward B. Hall, 1st Louisiana Cavalry (Union) to a military commission, RG 153 Records of the Judge Advocate General’s Office, Court-Martial Case Files, MM1080, National Archives; testimony of Private Charles Walton, 1<sup>st</sup> Louisiana Cavalry (Union), Thibodeaux, 6 September 1863, 2:267.

<sup>66</sup> Testimony of Lieutenant Colonel Harai Robinson, 1st Louisiana Cavalry (Union) to a military commission, Thibodeaux, Louisiana, 5 September 1863, *OR*, ser. 1, vol. 26, 1:263; Bayles, *History of Providence County*, vol. 1, 239; Major General N. P. Banks to Thomas M. Vincent, Assistant Adjutant General, Washington, D.C., 16 October 1863, 1:272.

Within the week that news of these violent punishments trickled back to Rhode Island, that state's governor, James Y. Smith, protested to Secretary of War Edwin Stanton. The Army had tried to "coolly thrust" his citizens into a "new organization" with no care that they would "lose all their identity with their native State." Banks's presumption to consolidate was a direct "conflict with our ideas of right and justice" and an "injustice to Rhode Island." Although too late, he demanded that the 2<sup>nd</sup> RI Cavalry "be allowed to maintain its name and organization." On 4 September the War Department cabled Banks asking for details. He summoned a military commission that rubber-stamped the consolidation. After primarily hearing testimony from the 1<sup>st</sup> Louisiana's officers, it concluded on 6 September that Robinson's actions had ensured "suppression of the mutiny."<sup>67</sup>

For nearly two months the matter rested there until Governor Smith wrote again on 7 November to Secretary Stanton demanding resolution and condemning the Army's violation of his soldiers' rights. They had been "disgraced by being torn from their own organization and placed in one which is in every way distasteful to them. Yet these men are volunteers....should they be treated so?" Either the order had to be revoked or the "men of the Second Cavalry transferred by special order to our First Cavalry." "Our people," Smith continued, viewed the executions as an "outrage to Rhode Island" especially given that the victims were "simply remonstrating against the order for consolidation." Smith worried openly that future Rhode Island volunteers would not be

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<sup>67</sup> Governor James Y. Smith to Secretary of War Edwin M. Stanton, Providence, Rhode Island, 4 September 1863, *OR*, ser. 1, vol. 26, 1:270; Thomas M. Vincent, Assistant Adjutant General, Washington, D.C. to Major General N. P. Banks, 4 September 1863, 1:269; findings of a military commission, Thibodeaux, Louisiana, 6 September 1863, 1:268.

“protected in their rights.” From the content of his letter, Smith understood these rights of (at least) Rhode Island soldiers to include the integrity of their organization, scrutiny of orders which threatened that integrity, and protection of the rule of law as defined in the Articles of War. Smith also condemned Banks for ignoring “a protest from this department” about the consolidation order. The Rhode Island governor had interposed himself between the Army and his citizens precisely to protect them from unjust treatment. Rather than respected in his position as a representative of his people’s interest, he had been sidelined by an unelected general’s pursuit of expediency and occupation politics.<sup>68</sup>

Smith’s interposition did not fall on deaf ears at the War Department, however, because Banks admitted in October that “I had no authority for this act whatever.” Despite General-in-Chief Henry Halleck’s initial approbation of Banks’s actions, he eventually yielded to Smith’s relentless interference. Smith insisted the order be rescinded and the Rhode Islanders be transferred to the state’s new 3rd Cavalry Regiment en route to Louisiana. These volunteers—whatever the truth of Banks’s charges against their conduct—finally experienced vindication when the Army agreed to their transfer to the 3<sup>rd</sup> RI Cavalry on 5 December.<sup>69</sup>

As in the case of the Anderson Cavalry, New York and Rhode Island volunteers emerged victorious from their confrontation with the Army. Military protest actions

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<sup>68</sup> Governor James Y. Smith to Secretary of War Edwin M. Stanton, Providence, Rhode Island, 7 November 1863, *OR*, ser. 1, vol. 26, 1:270–71.

<sup>69</sup> Major General N. P. Banks to Thomas M. Vincent, Assistant Adjutant General, Washington, D.C., 16 October 1863, *OR*, I, XXVI, I: 272; endorsement of H. W. Halleck, General-in-Chief, 16 November 1863 on Smith’s letter of 7 November 1863, *OR*, I, XXVI, I: 271; Thomas M. Vincent, Assistant Adjutant General, Washington, D.C. to Major General N. P. Banks, 5 December 1863, *OR*, I, XXVI, I: 272–73.

preserved the 44<sup>th</sup> New York and it at least saved the Rhode Island soldiers from service in the 1<sup>st</sup> Louisiana Cavalry and distributed across its companies. This would have erased their state affiliation and attenuated crucial bonds of comradeship with their fellow countrymen. The Ocean Staters' stand for rights of association and rights of protest secured the interposition of their chief executive against Banks flaunting the rule of law. In both affairs, the specter of consolidation also surfaced soldiers' basic attachment to the right of selection endemic to associational culture. A closed circle was only possible with the power to draw some lines about comradeship and membership; about who gained rights and duties through affiliation and who did not. Mid-Century Americans' unspoken assumptions about local control and local distinction mandated associational politics because they believed it best kept power and interest close to the people themselves, rather than in the hands of distant elites, jobbers, and speculators. Governor Smith, although physically distant, took a close interest in the events and felt an obligation to the men because he knew their communities and he was in the crosshairs of the newspapers that reported these events.

The case of the Rhode Island mutiny indicates the fundamental tension between citizen-soldiers' civic values of self-government and the Army's claim of authority over them. It highlighted the persistent connections between soldiers and their home communities, and laid bare the constitutional struggle that continued in wartime between state and national authorities. These citizens in uniform viewed enlistment as an act of self-government and that act of self-government remained valid only within the original contract they made to the United States *through their state*.

The Rhode Island mutiny was federalism defended with blood. Davis and Smith insisted before their deaths, “We belong to Rhode Island and not to Louisiana.” At first blush this reads like a quaint bit of parochialism. But when placed in the context of Governor Smith’s later actions and the broader contours of wartime politics it takes on greater significance. At that moment in September 1863 Louisiana’s constitutional status—its proper relationship to the Union—was unprecedented in the history of the Republic.

Its representation in Congress had been restored in February 1862 and by this standard of loyalty it was exempt from the operation of the Emancipation Proclamation. Yet as a constituent member of the Union it lacked crucial parts of the civil apparatus for republican government within its boundaries. And those boundaries were fluid with the state divided between the lower, Federal-occupied sugar parishes and the northern portion under Confederate control. In the Federal portion of Louisiana, although a provisional court system was implemented in October 1862, military government continued with Banks at its head. When the 2<sup>nd</sup> RI Cavalry made its stand, Louisiana had no state legislature and no governor. Its state constitution had been suspended. Michael Hahn was not elected governor until February 1864, there was no constitutional convention until April, and the constitution was not ratified until September.

Davis and Smith’s defiant objection to joining a *Louisiana* regiment, therefore, rested on finding themselves directly under the thumb of General Banks and the Army high command against their will. There would be no civil magistrate to hear their pleas, no “highest authority to which a soldier can appeal,” in the Pennsylvanians’ words

above. In light of Governor Smith's strenuous efforts on their behalf, their fears were well founded. These men cherished their affiliation with one of the Union's individual states; they went to their deaths raising a mutiny to protect their sense of belonging. That state could, when necessary, shield them from the excesses of political expediency and the threats of military despotism. The Rhode Islanders received a clear lesson that self-government required the states as intermediaries. The absence in Louisiana of the state government within the constitutional order made their entire, pathetic ordeal possible.

The political tumult of Louisiana also created a striking denouement for the 1<sup>st</sup> Louisiana Cavalry. After casualties and hard service during the Red River Campaign in the spring of 1864, the 1<sup>st</sup> Louisiana went on to absorb the 2<sup>nd</sup> Louisiana Cavalry (Union) in September. In this instance of consolidation wholly ignored by historians is the now familiar tension of citizenship values and military authority. Its circumstances also shed some additional light on the politics of wartime Reconstruction, especially the always tenuous coalition between Southern Unionists, carpetbaggers, and the Army. Colonel Robinson used his proximity to Banks and his high position in the military administration to his personal advantage. The officers and men of the 2<sup>nd</sup> Louisiana Cavalry despised the favoritism that gave Robinson the position and privilege to besiege their corporate rights of integrity and self-government. They, like the men of the 2<sup>nd</sup> Rhode Island Cavalry, tried to resist any manipulation of their right of association.

Lobbying for a field command with the 1<sup>st</sup> Louisiana Cavalry paved the way for Robinson to enrich himself with Banks's connivance. According to Charles A. Dana stationed in Memphis in January 1863, "Every colonel, captain, or quartermaster is in

secret partnership with some operator” pursuing the “mania for sudden fortunes made in cotton.”<sup>70</sup> During 1864 Robinson used his Gulf Department provost marshal’s office to clear tens of thousands of dollars in bribes. He used his authority from Banks to facilitate the sale of cotton between the lines. As with his handling of the 2<sup>nd</sup> Rhode Island Cavalry consolidation, it nearly resulted in his court-martial.<sup>71</sup>

Where at least a tenuous relationship existed between the 15<sup>th</sup> Pennsylvania Cavalry and the Anderson Troop, the only connection the two regiments of Louisiana cavalry had with one another was in their titles. The colonel of the 2<sup>nd</sup> Louisiana Cavalry, Irishman Daniel J. Keily, had expended his own resources to equip the unit and had spent ten months completing its organization. These efforts had cultivated an *esprit d’ corps* in this regiment recruited entirely within Union-controlled Louisiana from Anglo and immigrant soldiers. Some had transferred from New York and New England regiments stationed there since 1862. Others joined after their previous enlistments had ended.<sup>72</sup>

As the consolidation on 7 September 1864 approached, the 2nd Louisiana’s officers smelled a rat. Quite perspicaciously, Lieutenant James McBeth expounded his belief that

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<sup>70</sup> Dana quoted in McPherson, *Battle Cry of Freedom*, 621.

<sup>71</sup> Hundreds of other speculators worked in New Orleans and Mobile doing the same, Lash, *A Politician Turned General*, 170-75. According to Charles A. Dana, quoted in McPherson, *Battle Cry*, 621, stationed in Memphis in January 1863, “Every colonel, captain, or quartermaster in secret partnership with some operator” pursuing the “mania for sudden fortunes made in cotton,” *ibid*, 624. For allegations about Banks’s role in the illegal cotton trade see, James G. Hollandsworth, Jr., *Pretense of Glory: The Life of General Nathaniel P. Banks* (Baton Rouge: Louisiana State University Press, 1998), 215–18.

<sup>72</sup> Keily, along with many other “Wild Geese,” had fought in the Irish Battalion of St. Patrick during the 1860 Papal War, Roger D. Hunt and Jack Brown, *Brevet Brigadier Generals in Blue*, rev. ed. (Gaithersburg, MD: Olde Soldier Books, 1997), 325; John Eicher and David Eicher, *Civil War High Commands* (Palo Alto, CA: Stanford University Press, 2002), 328.

“the great object in consolidating the two regts. was to give the Col. of the 1<sup>st</sup> Regt. men enough” for a full-strength command.<sup>73</sup> The 150 NCOs and privates who remained in the 1st Louisiana following Banks’s Red River expedition still enjoyed “a full regiment’s compliment [sic] of officers.” At the same time, the nearly 1,000 troopers in Keily’s 2<sup>nd</sup> Cavalry faced a dearth of officers comparable to the Andersons’ two years before.<sup>74</sup> Yet, rumors claimed “that officers without men” in the 1<sup>st</sup> Louisiana would be entertained with an equally valid claim to a commission “before an examining board” as officers in the 2<sup>nd</sup> Louisiana “who had their full companies.”<sup>75</sup>

Here is the direct, causal connection with the 2<sup>nd</sup> RI Cavalry mutiny. Due to Governor Smith’s stubborn interposition, Robinson’s 1<sup>st</sup> Louisiana Cavalry remained a rump unit. The Rhode Island troopers joined the 3<sup>rd</sup> Rhode Island Cavalry in December 1863. Without those contributions, Robinson’s unit finished Banks’s 1864 Red River Campaign severely understrength. Robinson and Banks settled on absorbing Keily’s regiment rather than expending time and resources on a recruiting effort. Besides, Robinson may have viewed the 2nd Louisiana Cavalry as a rival source of loyalty for white Unionists and growing numbers of carpetbaggers populating the state—including discharged, three-year Northern volunteers, such as the men who joined the 2nd Louisiana. Keily’s disgruntled officers recoiled at consolidation’s threat to the integrity

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<sup>73</sup> Dyer, *War of the Rebellion*, 1213; Lieutenant James McBeth to Dear Billy, 16 October 1864, James E. McBeth Letters, [2nd Louisiana Cavalry (Union)], William Conrow Collection, New-York Historical Society, New York, NY (hereafter NYHS), original emphasis.

<sup>74</sup> McBeth to Dear Billy, 16 October 1864, Conrow Collection, NYHS.

<sup>75</sup> McBeth to Dear Billy, 16 October 1864, Conrow Collection, NYHS.



of their organization, to membership based on the terms of service Keily had extended, and their presumed rights of selection to reject association with undesirables.

In McBeth's view, Colonel Robinson exploited the provost marshal's office in the same way that he orchestrated consolidation of Keily's regiment for his own aggrandizement. McBeth correctly suspected that Robinson had only gained his colonelcy "through red tape by a *special* order." "He has wire pulled and worked himself into the favorable graces of that military ass—\*\*\*General Banks\*\*\*."<sup>76</sup> Like the Rhode Island officers before them, Keily's men declined to appear in front of the board, much less accept a ruling that was in no way binding. "We made up our minds that it was all a farce. And we refused to be made fools of." The Army served McBeth and his fellow officers with dishonorable discharges for rejecting a direct order. But McBeth planned "to see what I can do as a citizen" to scrutinize and instruct his magistrates. He composed a "carefully worded petition" intended for President Lincoln, vowing to a friend, "We will fight them tooth and nail at Washington" to win honorable discharges.<sup>77</sup>

McBeth remained in New Orleans as a witness for Colonel Keily. Court-martialed for encouraging the officers' dissent, the Irishman was acquitted. McBeth did not let his dishonorable discharge prevent him from working in the Quartermaster's Department as a civilian. He was glad to be rid of the Army. "Changing from military to civil life is a great relief to a person. Before every damned fool who happened to be placed over me was clothed with powers to do to a certain extent any thing he liked. But now it is again

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<sup>76</sup> McBeth to Dear Billy, 16 October 1864, Conrow Collection, NYHS, emphasis with asterisks original.

<sup>77</sup> McBeth to Dear Billy, 16 October 1864, Conrow Collection, NYHS.

my turn...It now resolves itself down to the question of who is the best man.”<sup>78</sup>

McBeth’s reaction was, in a sense, a negative example of the direct relationship between the integrity of a soldier’s regiment and his commitment to the Union cause.

James McBeth was a loyal citizen-soldier in 1864, committed to the Union’s expansive war aims as they developed over its course. The lived reality of self-government in antebellum Northerners’ locales and free association citizens prompted them to fight and die from 1861–1865. Yet, these principles realized as soldier rights could make them despise the very instrument of Union victory. Like many of the dissenters presented in this chapter, James McBeth did not believe victory should erode America’s civic principles. In contrast to his experience, the soldiers of the Anderson Cavalry salvaged self-government in their organization and were victorious in their claims against the Army. The 1<sup>st</sup> Louisiana Cavalry unfairly absorbed McBeth’s regiment and he was discharged (unjustly he believed) from the service. He finished the war grateful to be out of the Army rather than content to finish the job if his regiment had been preserved in its rights. And he expressed none of the convictions about seeing the war through to the end. Instead, he adopted the traditional American point-of-view that a standing army and military service were obstacles to individual liberty and republican government.

This seemed especially true in the case of the 2<sup>nd</sup> Rhode Island and 2<sup>nd</sup> Louisiana. These men were interchangeable parts for Federal forces, the largest army in American history up to that time. From that vantage point the organizing principle of state-

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<sup>78</sup> McBeth to Dear Billy, 11 November 1864, Conrow Collection, NYHS.

affiliated volunteer regiments simply served as the best available method of sweeping men into the ranks, no matter what long-standing traditions were violated along the way. On the other hand, consolidation's sparing use recognized that associationalism and regimental integrity were vital to the morale and cohesion of armies. Leaving the importance of comradeship aside, consolidation undermined self-government by weakening the citizen-soldier's ties to home and to the Union cause. The Army's even occasional recourse to consolidation resurrected the term's nefarious connotation from the Early Republic. Both forms of consolidation threatened to turn the People into an undifferentiated mass more easily manipulated by a central authority. This could be accomplished in the civil realm by weakening the integrity of state governments; in the military realm by doing the same to state regiments. Self-government, on the other hand, necessitated the states as a check on the untrammelled sway of an overweening tyrant.

### ***Conclusion***

Northern Anglo volunteers in the Union Army held in tension a view of themselves as dutiful soldiers and loyal citizens invested with particular individual and corporate rights by virtue of their soldier status and membership in a voluntary association. Citizens in uniform resorted to military protest actions in order to condemn, if not oppose, violations of these rights. Examples of such points of conflict were slow or late pay, the unlawful extension of their term of service, tyrannical discipline by their officers, and consolidation of their regiments, and the Army's attempts to manipulate their rights of selection and alienation.

In response to these transgressions against their soldier rights, Anglo volunteers took up military protest actions that paralleled the popular constitutionalism in street parades, petition drives, and public meetings. The origins of their regiments as locally organized, voluntary organizations ferried associationalism, public culture, and self-government into the military. There it came into conflict with the Army's strategic priorities and its need for uniform discipline through the chain of command.

The habits of popular constitutionalism continued in mutinies' aftermaths. Citizen-soldiers presented testimony in courts-martial, made appeals up the military chain of command, and petitioned their civilian political leaders for protection. They collaborated with their home communities in making their voices heard through the exchange of correspondence, petitions to civic and military leaders, and by publishing their own versions of protest actions in local and national newspapers.

Mutinies by Northern Anglo citizen volunteers extended the antebellum world's public culture into the most unlikely place: the authoritarian institution of the military. The priorities of military discipline and regimentation could not erase conventions of self-government. Citizen-soldiers found occasions and forms to maintain the lively associational culture they had lived prior to wartime. Military protest actions reached well into the third year of the war among Anglos. They were possible as long as regiments remained mirrors of local associational ties with widespread awareness among the rank and file of their soldier rights.

As the war went on, regimental integrity attenuated through the myriad hazards of service. Rosters became increasingly listed with dead, wounded, sick, discharged,

detached, and even deserted soldiers. By 1863 and 1864 new recruits' binding ties to their organizations were frequently artificially constructed through conscription or reinforced by swelling bounty payments. In a phenomenon related to consolidation, mass transfers parceled out the remaining soldiers from regiments shattered by combat or diminished by the termination of enlistments. All of these patterns that accompanied the turn to the "hard war" of 1864 and 1865 made it more difficult for men to envision, much less assert, a coherent, corporate ownership of their organizations.

Yet victory in 1865 and the sacrifices it entailed had not snuffed out the antebellum public culture that citizen-soldiers had tried to preserve. It lived on, in fact, in their regimental veterans' *associations*, in the Military Order of the Loyal Legion of the United States, and in Union veterans' national organization, the Grand Army of the Republic. These descendants of the wartime regiments continued a line of martial associations stretching back to the prewar voluntary military companies. Incorporation, membership, and self-government through by-laws and charters continued. And in these postwar associations veterans asserted a new set of veteran's rights, though more inchoate than what they brought with them to the Army originally. They embraced control over the memory of the war and the role their organization played. They established guidelines and programs for charitable assistance to their indigent or disabled members. And those efforts carried into agitation for greatly enhanced veterans' pensions culminating in the legislation of 1890. Military protest actions, from petitions all the way to mutinies, were crucial incubators of American self-government during the

Civil War. Moreover, they presented specific evidence for the ways that wartime Anglos found the power to remain authentic citizens even while in uniform.

CHAPTER IV  
“SOLDIERS OF OUR RACE AND COUNTRY”:  
SOLDIER RIGHTS AND MILITARY PROTEST ACTIONS  
IN NORTHERN REGIMENTS OF THE UNITED STATES COLORED TROOPS

On an April night in 1864 several dozen soldiers of the 55<sup>th</sup> Massachusetts Infantry Regiment (Colored) mutinied aboard the transport steamer *Sentinel* to free Sergeant Sampson Goliah from what they believed to be an improper arrest. Colonel Alfred S. Hartwell had ordered the civilian captain of the steamer to tie Goliah to the rigging. The mutineers saw this as a violation of the rights and protections that belonged to them as members of their regiment. After a brief struggle with officers and fellow soldiers on guard detail, they spirited him below decks. The mutinous soldiers only savored a brief moment of triumph before more officers and soldiers confronted them. Even as Goliah bellowed in defiance, he was rearrested and the mutiny collapsed less than an hour after it erupted. After the steamer disembarked on Folly Island, South Carolina, the next day, the colonel ordered courts-martial to try Goliah and four ringleaders for mutiny.<sup>1</sup>

Military protest actions, like the Goliah incident, in African American regiments raised in the North reveal free Northern black soldiers and emancipated slave soldiers articulating a body of soldier rights that they claimed as loyal members of the Federal army pledged to defend the Union and bring down the institution of slavery. Defining and defending these rights during military protest actions, however, put soldiers in a position of dissent—ostensible disloyalty—against the Army; the very vehicle of their drive for freedom.

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<sup>1</sup> Charges and specifications, Colonel Alfred S. Hartwell testimony, Second Lieutenant Josiah Bean testimony, and Privates David Wilkins and Charles C. Porter testimony in the general court-martial of Sergeant Sampson Goliah, 55<sup>th</sup> Massachusetts Infantry Regiment (Colored), 7 May 1864, NN2479, Court-Martial Case Files, RG 153 Records of the Judge Advocate, National Archives, Washington, D.C. (hereafter Goliah court-martial).

Northern and Southern-black soldiers in the 55<sup>th</sup> Massachusetts Infantry and the 14<sup>th</sup> Rhode Island Colored Heavy Artillery (RICHA) located these rights in their own experience with Northern antebellum political culture and the enslaved's patterns of confrontation and resistance, respectively. Moreover, the legal rights extended to black soldiers in Army courts-martial formed an important basis for citizenship.<sup>2</sup> Furthermore, the Army's recognition of those rights places added emphasis on the African American military protest actions that gave rise to the achievements in the courtroom.

Recognizing that these regiments comprised majorities of Northern free blacks alongside smaller contingents of freed blacks, this chapter builds on the work of Keith Wilson whose study of camp life of African American soldiers found points of cultural interaction among Northern and Southern blacks in folk music and religious practice as well as conflict over racial leadership and responses to discrimination within the military.<sup>3</sup> While the focus of these protest actions is on how Northern free blacks used them to define their soldier rights, Southern blacks played important roles as comrades in arms. These military protest actions were yet another example of how the Civil War intensified African American political cooperation across sectional boundaries in the pursuit of freedom. Northern blacks grew firmer in their vision of racial solidarity across the nation in pursuit of civic rights that would secure the full flowering of self-government for African Americans and respectable membership in a new Union. In this way it links the black soldiering experience more firmly to the larger trends of nationalization unleashed by the Civil War and Reconstruction.

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<sup>2</sup> Christian G. Samito, *Becoming American Under Fire: Irish Americans, African Americans, and the Politics of Citizenship During the Civil War Era* (Ithaca, NY: Cornell University Press, 2009), 77–102; Samito, “The Intersection between Military Justice and Equal Rights: Mutinies, Courts-martial, and Black Civil War Soldiers,” *Civil War History* 53, no. 2 (November 2008): 200–03 (170–203).

<sup>3</sup> Keith P. Wilson, *Campfires of Freedom: The Camp Life of Black Soldiers During the Civil War* (Kent, OH: Kent State University Press, 2002), 13, 42, 52, 126, 164.



Although the two regiments chosen for this chapter were part of the United States Colored Troops (USCT), they contained Northern free black men in a far greater proportion than most other African American regiments. Defined as a person of African descent not in a state of bondage at the war's outbreak and resident in the states loyal to the Union, these Northern blacks were a divergent collection of volunteers from the Northeast, the Middle West, and the Border States. Of the roughly 2.8 million men who served for some length of time in the Union forces, only 33,364 "colored troops" were officially credited to the enlistment quotas of states in the Northern and Western states. By contrast, the slaveholding Border States and the seceded states contributed a staggering 139,715 such men, the majority of whom were emancipated slaves. Nevertheless, Northern blacks contributed members to several regiments beyond the well-recognized 54<sup>th</sup> Massachusetts Infantry.<sup>4</sup> Pennsylvania sponsored eleven USCT regiments, New York three. Other states including Illinois, Connecticut, and Iowa each raised a single regiment.<sup>5</sup> Their small numbers gave Northern free blacks a unique place in the Army. Although by the beginning of 1864 they accounted for 18 percent of all blacks under arms, probably only one in every one hundred Union

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<sup>4</sup> Director Edward Zwick's film *Glory* (1989) did the most to immortalize the 54<sup>th</sup> Massachusetts in popular memory. For a fine consideration of the film's impact see the essays in Martin H. Blatt, Thomas J. Brown, and Donald Yacovone, eds., *Hope & Glory: Essays on the Legacy of the 54th Massachusetts Regiment* (Amherst: University of Massachusetts Press, 2001).

<sup>5</sup> Edward A. Miller, *The Black Civil War Soldiers of Illinois: The Story of the Twenty-ninth U. S. Colored Infantry* (Columbia: University of South Carolina Press, 1998); Joseph T. Wilson, *The Black Phalanx: A History of the Negro Soldiers of the United States in the Wars of 1775–1812, 1861–'65* (Hartford, CT: American Publishing Company, 1890).

soldiers could be considered a Northern free black.<sup>6</sup> Composed of Northern free blacks and Southern freedmen, these Federal regiments had a distinctive role as places of cultural encounter between free and freed African Americans.

A minority in the larger USCT, Northern blacks made up the majority inside the 55<sup>th</sup> Massachusetts and the 14<sup>th</sup> Rhode Island. Sixty-two percent of the 55<sup>th</sup> Massachusetts's soldiers had been born in non-slave, Northern states. Nearly 56 percent had been born in the Ohio Valley states of Ohio, Pennsylvania, Kentucky, and Indiana. Furthermore, unlike most freedmen who were former agricultural laborers, nearly 45 percent of the soldiers in the 55<sup>th</sup> Massachusetts had been artisans, skilled workers, or unskilled laborers before the war. This compared to the whole Army where the number was around 10 percent. Company A of the 14<sup>th</sup> RICHA, the locus of its protest actions discussed below, was almost entirely Northeastern, drawing over 80 percent of its soldiers from New York City, Pennsylvania, or New England. An urban company as well, only a little more than 15 percent of its members claimed prewar occupations as farmers.

In the 55<sup>th</sup> Massachusetts and the 14<sup>th</sup> Rhode Island's first company, the percentage of soldiers whose state of origin allowed slavery was 36 and 13, respectively. Judging the proportion of freedmen-soldiers in both regiments is complicated by the reality that some

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<sup>6</sup> *The War of the Rebellion: A Compilation of the Official Records of the Union and Confederate Armies*, 128 vols. (Washington, D.C.: Government Printing Office, 1880-1901), ser. 3, vol. 4, 1269-1270 (hereafter cited as *OR*); William Seraile, *New York's Black Regiments during the Civil War* (New York: Routledge, 2001), 2; J. Matthew Gallman, "'In Your Hands that Musket Means Liberty': African American Soldiers and the Battle of Olustee" in Gallman, ed., *Northerners at War: Reflections on the Civil War Home Front* (Kent, OH: Kent State University Press, 2010), 234-39. Even my definition has limitations. Some free blacks had only escaped bondage very recently. Including the slaveholding border states is problematic of course. In this chapter, sources include testimony from African American soldiers born in St. Louis, Missouri. Although in a slave state, the antebellum metropolis was also a center of western antislavery sentiment and marked by its use of free labor and significant population of free blacks. See Adam Arenson, *The Great Heart of the Republic: St. Louis and the Cultural Civil War* (Cambridge: Harvard University Press, 2011); Louis S. Gerteis, *Civil War St. Louis* (Lawrence: University Press of Kansas, 2001). Testimony is from men whose military service records identified them as born in a free state or stipulated they were free before 19 April 1861.

recruits born in the South resided in free states by the war's outbreak.<sup>7</sup> An escapee could have been living in freedom for many years before he enlisted. Take Private William H. Smith in the 14<sup>th</sup> Rhode Island, for example. A twenty-five year-old born in Richmond, he had lived with his family in Ohio since about 1844.<sup>8</sup> Even with their components of emancipated slaves, these two black units reflected the demographics of the Northern, free African American community through their high proportions of urban, working-class soldiers.<sup>9</sup>

Attention to this feature of the Civil War black soldiering population deserves attention because, as proposed in the Introduction, Northern blacks contributed a voice of protest distinct from the escapees and freedmen alongside whom they served. Northern free black soldiers had a particular culture of protest. It originated with their longstanding, broadly-based participation in Northern public culture. The soldier status that both groups of African Americans gained serving inside regiments of the USCT afforded them a new realm for civic action within the prevailing culture of associational self-government.

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<sup>7</sup> Regimental Descriptive Book, Vol. 1 of 8, 55<sup>th</sup> United States Colored Troops, Massachusetts Infantry, Book Records of Volunteer Union Organizations, RG 94 Records of the Adjutant General, National Archives, Washington, D.C. (hereafter 55<sup>th</sup> Massachusetts Descriptive Book). The 54<sup>th</sup> Massachusetts had similar percentages, Edwin S. Redkey, "Brave Black Volunteers: A Profile of the Fifty-fourth Massachusetts Regiment" in Martin H. Blatt, Thomas J. Brown, and Donald Yacovone, eds., *Hope & Glory: Essays on the Legacy of the 54th Massachusetts Regiment* (Amherst: University of Massachusetts Press, 2001), 21-24. For the 14th RICHA, see 11<sup>th</sup> United States Colored Heavy Artillery, Union Compiled Military Service Records, RG 94 Records of the Adjutant General, National Archives, Washington, D.C. (hereafter CMSR).

<sup>8</sup> Private William H. Smith, 11<sup>th</sup> United States Colored Heavy Artillery, CMSR; William H. Smith, age 10, Chillicothe, Ross, Ohio, page 49A, image 103, National Archives Microfilm Publication M432, roll 725, *Seventh Census of the United States*, 1850, RG 29 Records of the Bureau of the Census, National Archives, Washington, D.C. Judging by the birthplaces of William and his younger siblings recorded in the census, the family had resided in Ohio since 1844.

<sup>9</sup> Fifty-two percent of the 55<sup>th</sup> Massachusetts's soldiers were farmers or farm laborers, 55<sup>th</sup> Massachusetts Descriptive Book. In the 54<sup>th</sup> it was 25 percent, Redkey, "Brave Black Volunteers." In the 14<sup>th</sup> RICHA, only 17 percent were farmers.

In the case of this chapter's subjects, Northern blacks had their own citizen-soldiering tradition that attuned them to notions of self-government and soldier rights. Black abolitionists such as William C. Nell recovered the record of black military service in the War for Independence and the War of 1812. Memories of the promises of freedom to slaves who served during the Revolution and with Andrew Jackson at New Orleans were reminders that soldier status could confer rights. Northern African Americans also participated in antebellum military associational culture by forming their own volunteer companies. In 1855 Providence's blacks organized a volunteer rifle company and Cincinnati's African Americans formed a "well drilled, well uniformed, and well officered" unit called the "Attucks Blues."<sup>10</sup> Although officially excluded from military service in 1861, African Americans in New York City, Providence, and Boston continued to form their own drill squads and militia companies during the war's first two years.<sup>11</sup> Following the advice of black abolitionist Alfred M.

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<sup>10</sup> Seraile, *New York's Black Regiments*, 7; "Colored Militia," *Frederick Douglass' Paper* (Rochester, NY), 3 August 1855; on the hagiography of Crispus Attucks among Northern Blacks see Mitch Kachun, "From Forgotten Founder to Indispensable Icon: Crispus Attucks, Black Citizenship, and Collective Memory, 1770–1865," *Journal of the Early Republic* 29, no. 2 (Summer 2009): 249–286; William C. Nell, *Services of Colored Americans in the Wars of 1776 and 1812* (New York: Prentiss and Sawyer, 1851); Nell, *The Colored Patriots of the American Revolution: With Sketches of Several Distinguished Colored Persons: to which is Added a Brief Survey of the Condition and Prospects of Colored Americans* (Boston: R. F. Wallcutt, 1855).

<sup>11</sup> In May 1861 some New York City blacks rented a hall which they used for military drill even after a public meeting rejected petitioning the governor to form a militia company, Seraile, *New York's Black Regiments*, 17–18. Blacks in Providence held two public meetings in August 1862 to plan a regiment rumored to be sponsored by their state's governor. Their executive committee wanted assurances that the national government would accept black soldiers with the same pay and privileges as whites. If these terms of their service could not be met they promised to disband the proposed organization, Westwood, 143–44. In September 1863 African Americans in Boston created The First Colored Militia of the Gallant Shaw in honor of the sacrifices of the 54th Massachusetts Infantry at Fort Wagner in South Carolina, "For the Christian Recorder," *Christian Recorder* (Philadelphia), 3 October 1863.

Green, these Northern blacks prepared themselves to “be armed” and “schooled in military service” with sufficient “manhood to defend the right and the sagacity to detect the wrong.”<sup>12</sup>

The Northern USCT regiments, therefore, nurtured two distinct strains of black dissent joined to the potent claim that American soldiers possessed specific rights derived from their membership in a military association. Soldier status depended on a voluntary pledge of allegiance—loyalty to the nation—yet it also conferred a degree of sovereign power on the subject to define what rights his pledge of loyalty should entail. In this way confronting the arbitrary orders of officers, writing letters in the black press, and even taking up mutiny did not compromise a soldier’s loyalty to the nation. Rather, these forms of dissent illustrated self-government in the ranks. Once placed in the broader contexts identified above, military protest actions in Northern black regiments emerge as a method for African Americans in uniform to resolve their loyalty to the nation and to its ideals which their community had historically found in conflict. By drawing in black soldiers from both regions Northern black regiments also spurred a freedom struggle that was national in breadth. All of these experiences contributed to Northern African Americans’ calls, beginning in 1864 and intensifying during Reconstruction, for the legal definition of their civil and political rights.

Seating Northern black regiments in the context of antebellum associational culture lends greater nuance to the wartime complaints of African Americans about their military service. Three violations of their soldier rights—unequal pay, discrimination in officer commissions, and abusive treatment—populate the record left behind by Northern black soldiers. Any one

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<sup>12</sup> Alfred M. Green, 19 October 1861, *Weekly Anglo-African* (New York) collected in Alfred M. Green, ed., *Letters and Discussions on the Formation of Colored Regiments, and the Duty of the Colored People in Regard to the Great Slaveholders’ Rebellion, in the United States of America* (Philadelphia: Ringwalt & Brown, 1862), 22.

of these complaints could evoke claims that “we should be treated in all respects like white soldiers” or that “we have not been treated like men and soldiers belonging to the army of the United States.” In both phrasings there was a sense that black soldiers had been robbed of the dignity due to citizens in uniform. The sense of solidarity created through corporate self-government underlay convictions that black officers “would inspire...confidence” because they would be “men from their own ranks.” As a mark of soldier status under the wartime recruiting calls, Northern African Americans’ uncertainty that they would be able to “claim equal pay with other volunteers” placed “our military and civil equality at issue.”<sup>13</sup>

These African Americans acted directly in the destruction of slavery and their actions helped to transform Civil War historiography. Historians have demonstrated two fundamental concepts. One, the over 180,000 African American soldiers were crucial to Union victory and two, black enlistment contributed mightily to abolition. Since the 1950s, scholars have revealed more about the relationship of blacks to their white officers, their efforts to secure equal treatment, their medical care and everyday lives, and how they made meaning out of their experience in uniform. Donning Union blue became the ultimate act of self-emancipation for the formerly enslaved. Northern blacks believed their participation in the struggle against slavery would “reward their sacrifices with full freedom, equality, and

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<sup>13</sup> “Bay State” to *Weekly Anglo-African* (New York), 30 April 1864 in Noah Andre Trudeau, ed., *Voices of the 55<sup>th</sup>: Letters from the 55<sup>th</sup> Massachusetts Volunteers, 1861-1865* (Dayton, OH: Morningside House, 1996), 85; Sergeant Richard W. White to *Weekly Anglo-African* (New York), 4 June 1864 in Noah Andre Trudeau, ed., *Voices of the 55<sup>th</sup>*, 102; “Picket” to *Weekly Anglo-African* (New York), 30 July 1864 in Noah Andre Trudeau, ed., *Voices of the 55<sup>th</sup>*, 112; Resolutions of the 55<sup>th</sup> Massachusetts, 10 October 1864 in Sergeant Gabriel P. Iverson, 55<sup>th</sup> Massachusetts Infantry to *The Christian Recorder* (Philadelphia), 12 November 1864 in Edwin S. Redkey, ed., *A Grand Army of Black Men: Letters from African-American Soldiers in the Union Army 1861-1865* (New York: Cambridge University Press, 1992), 248.

citizenship.”<sup>14</sup> Therefore, military protest actions by Northern black soldiers reveal crucial connections between military service, prewar protest culture, and the definition of soldier rights which in turn shaped the national African American struggle for freedom initiated by the war.

Black military service began in 1862, immediately dogged by inequalities of pay, officer commissions, and treatment. Without the blows to the North’s battlefield fortunes at the Seven Days Battles and the Second Battle of Bull Run in mid-1862, the haphazard and piecemeal recruitment of blacks (without the sanction of Federal law) in Kansas, Louisiana, and South Carolina might have continued. Those Union defeats, however, ushered in the bitter reality of a long war against a Confederacy with reenergized morale.<sup>15</sup> In response, the U.S. Congress passed the Second Confiscation Act (17 July 1862) to extended freedom to escaped slaves working within Federal lines if their former masters were Confederates. The Confiscation Act remained silent on the pay of blacks in the service of the Army, but the Militia Act of the same date authorized their enlistment for \$7 per month. These conflicting

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<sup>14</sup> Dudley Taylor Cornish, *The Sable Arm: Negro Troops in the Union Army, 1861-1865* (1956; New York: W. W. Norton, 1966); James M. McPherson, *The Struggle for Equality: Abolitionists and the Negro in the Civil War and Reconstruction* (Princeton, NJ: Princeton University Press, 1964); Ira Berlin, Joseph P. Reidy, and Leslie S. Rowland, eds., *The Black Military Experience: Freedom: A Documentary History of Emancipation, 1861-1867*, Series II (New York: Cambridge University Press, 1983); Joseph T. Glatthaar, *Forged in Battle: The Civil War Alliance of Black Soldiers and White Officers* (New York: Free Press, 1990); Noah Andre Trudeau, *Like Men of War: Black Troops in the Civil War, 1862-1865* (New York: Little, Brown and Company, 1998); Blatt, et al., *Hope & Glory*; Chandra Manning, *What This Cruel War Was Over: Soldiers, Slavery, and the Civil War* (New York: Knopf, 2007). The quote comes from Joseph P. Reidy, “The African American Struggle for Citizenship Rights in the Northern United States during the Civil War” in *Civil War Citizens: Race, Ethnicity, and Identity in America's Bloodiest Conflict*, Susannah J. Ural, ed. (New York: New York University Press, 2010), 231.

<sup>15</sup> Stephen V. Ash, *When the Yankees Came: Conflict and Chaos in the Occupied South, 1861-1865* (Chapel Hill: University of North Carolina Press, 1995), 39-40.

stipulations eventually created a national controversy over the pay of African American troops.<sup>16</sup>

The controversy began when individual regiments' terms of service stipulated pay equal to whites in spite of the Militia Act's specifications. Case in point were the two Massachusetts colored infantry regiments—the famous 54<sup>th</sup> and less heralded 55<sup>th</sup>—authorized under a specific War Department order dated 26 January 1863. It empowered Massachusetts Governor John A. Andrew to raise additional Massachusetts' volunteers which “may include persons of African descent, organized into separate corps.” Prominent white abolitionists and Northern black leaders including Frederick Douglass and William Wells Brown recruited volunteers from across the Northern states. Eventually honored more in the breach, the new soldiers were promised \$13 a month, a \$50 bounty at muster-in and another \$100 on muster out of service. Black non-commissioned officers, surgeons, and chaplains were likewise promised pay at the equivalent rate of whites.<sup>17</sup>

The 1862 acts of Congress and the Emancipation Proclamation formed the legal foundation for the official recruitment of black troops across the North, but when Attorney General Edward Bates recognized the national citizenship of native-born, free persons of African descent on 29 November 1862 he extended to them the same protections and

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<sup>16</sup> Gary W. Gallagher, *The Union War* (Cambridge: Harvard University Press, 2011), 89-90; Glatthaar, *Forged in Battle*, 169; Wilson, *Campfires of Freedom*, 44. The monthly rate was \$10 but \$3 worth was paid in clothing.

<sup>17</sup> Secretary of War Edwin M. Stanton, War Department, 26 January 1863 in “Message of the President of the United States,” 7 May 1864, *Congressional Globe*, 38<sup>th</sup> Congress, 1<sup>st</sup> Session, Senate, Executive Document 42; James M. McPherson, *The Negro's Civil War: How American Negroes Felt and Acted during the War for the Union*, (New York: Pantheon Books, 1965), 173; Donald Yacovone, “The Fifty-Fourth Massachusetts Regiment, the Pay Crisis, and the ‘Lincoln Despotism,’” in Martin H. Blatt, Thomas J. Brown, and Donald Yacovone, eds., *Hope & Glory: Essays on the Legacy of the 54th Massachusetts Regiment* (Amherst: University of Massachusetts Press, 2001), 36.



obligations as other citizens enlisted in the service of the national government.<sup>18</sup> In the new paradigm of citizenship, Northern black soldiers claimed sovereignty over their soldier rights as white volunteers always had. Complaints proceeded apace about the denial of commissions to competent blacks, unjust discipline by white officers, and unequal pay.

Both Massachusetts regiments had cadres of black non-commissioned officers who had been put forward early in 1863 by their colonels and Governor Andrew for commissioned rank.<sup>19</sup> The War Department order precluded any possibility of integrated units, but like all citizen-soldiers, Northern blacks held firmly to the soldier's right of electing the best of their own as company officers. "We want black commissioned officers; and only because we want men we can understand and who can understand us."<sup>20</sup> Furthermore, African American volunteers feared barring their commissions would discourage "the right kind of men" from serving.<sup>21</sup> Instead "to the utter exclusion of intelligent soldiers" too many white officers (especially replacements) seemed to be from a class of "street-loafers and grog-shop rowdies."<sup>22</sup> Without attention to the demand for black commissions, condemnations of "white" officers in the mutinies discussed below can become disconnected from Northern blacks' associational concerns that the members designate competent fellows with authority

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<sup>18</sup> According to Bates, the Constitution was silent on color as a disability for the citizenship of natural-born persons, *Opinion of Attorney General Bates on Citizenship* (Washington, D.C.: Government Printing Office, 1862), 14-15.

<sup>19</sup> Yacovone, "The Fifty-Fourth Massachusetts," in Blatt, Brown, and Yacovone, eds., *Hope & Glory*, 42.

<sup>20</sup> "Sergeant" 54<sup>th</sup> Massachusetts Infantry, Morris Island, South Carolina, *The Liberator* (Boston), 4 October 1864 in Edwin S. Redkey, *A Grand Army of Black Men: Letters from African-American Soldiers in the Union Army 1861-1865* (New York: Cambridge University Press, 1992), 211.

<sup>21</sup> William Schouler, *A History of Massachusetts in the Civil War* (Boston: E. P. Dutton & Company, 1868), 408; Robert Purvis, 18 February 1863, in McPherson, *The Negro's Civil War*, 175.

<sup>22</sup> Josiah A. Bean, 55th Massachusetts Infantry Regiment (Colored), CMSR; Sergeant Sampson Goliah, 55th Massachusetts Infantry Regiment (Colored), CMSR; quotes from "Picket," 55<sup>th</sup> Massachusetts, 30 June 1864, *Weekly Anglo-African* (New York) in Trudeau, ed., 113.

over the whole. Race mediated an equally complex commitment to antebellum Northern practices of self-government.

Although calls for black officers never fell silent, demands for equal pay moved to the forefront of black military protest in the summer of 1863. The Union victories in July 1863 at Gettysburg, Vicksburg, and Port Hudson confirmed the government's more expansive war aims as African American soldiers shed loyal blood in the battles of Milliken's Bend (7 June) and Fort Wagner (18 July). Yet, on 4 June 1863 the War Department promulgated a pay policy to comply with the 1862 Militia Act.<sup>23</sup> Recalling the original terms of service offered to the 55<sup>th</sup> Massachusetts, its first colonel, Norwood P. Hallowell, spoke the language of soldier rights that his Northern black soldiers would have understood: "They were promised thirteen dollars per month. They were insulted with seven dollars."<sup>24</sup> One of Hallowell's Michigan soldiers agreed when he linked his service to the exploits of African American soldiers elsewhere, "We showed our qualities at Port Gibson and Fort Wagner...all the compensation that we ask is to give us our rights."<sup>25</sup>

Most painful of all, at the same time the Federal government had devalued black soldiers with the policy of unequal pay, Northern African American families endured racist pogroms in several cities. The most conspicuous were the New York City Draft Riots (13-16 July

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<sup>23</sup> In response, Governor John A. Andrew implored Attorney General Bates to review Whiting's decision and urged Congress to legislate a solution, Herman Belz, "Law, Politics, and Race in the Struggle for Equal Pay during the Civil War," *Civil War History* 22, no. 3 (September 1976): 197-99; Christian G. Samito, *Becoming American Under Fire*, 56. The small number of blacks in uniform who possessed any rank—non-commissioned officers, surgeons, and chaplains—were immediately reduced to a private's pay as well.

<sup>24</sup> Norwood Penrose Hallowell, *The Negro As a Soldier in the War of the Rebellion* (Boston: Little, Brown and Co., 1897), 17.

<sup>25</sup> "Wolverine," 55<sup>th</sup> Massachusetts Infantry, Folly Island, South Carolina, *Christian Recorder* (Philadelphia), 2 January 1864 in Edwin S. Redkey, *A Grand Army of Black Men: Letters from African-American Soldiers in the Union Army 1861-1865* (New York: Cambridge University Press, 1992), 236; J. Matthew Gallman, "African American Soldiers and the Battle of Olustee" in J. Matthew Gallman, *Northerners at War: Reflections on the Civil War Home Front* (Kent, OH: Kent State University Press, 2010), 238-39.

1863). While rebels in gray shed the blood of Northern black soldiers, “the rebels that are at our backs” did the same to their kin at home.<sup>26</sup>

The whirlwind of violence alongside the reduced pay rate raised fearful connections for Northern blacks between their soldier rights, the recently endorsed title of citizen, and their role as breadwinner. Unequal pay stung Northern blacks who had absorbed antebellum market values.<sup>27</sup> A soldier in the 55<sup>th</sup> asked, “Are our parents, wives, children and sisters to suffer, while we, *their natural protectors*, are fighting the battles of the nation?”<sup>28</sup> His question exposed how the pay discrepancy undermined soldiers’ manly ability to provide for their dependent wives and children. Acquiescing in unequal military compensation threatened to halt the revolutionary consequences of black enlistment. As the Reverend J. P. Campbell explained, “If we go in equal in pay, we hope to come out equal in

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<sup>26</sup> “Wolverine,” in Redkey, 236; James M. McPherson, *Battle Cry of Freedom: The Civil War Era* (New York: Oxford University Press, 1988), 686-7; George Templeton Strong, *Diary of the Civil War, 1860-1865*, Allan Nevins, ed. (New York: Macmillan, 1962), 336-37, recorded for 14 July 1863 an all too common scene: “a black man hanged in Carmine Street, for no offence [*sic*] but that of Nigritude,” 341. The best analysis of the riots remains Iver Bernstein, *The New York City Draft Riots; Their Significance for American Society and Politics in the Age of the Civil War* (Lincoln, NE: University of Nebraska Press, 1990).

<sup>27</sup> Gordon S. Wood, “The Enemy is Us: Democratic Capitalism in the Early Republic” in Paul A. Gilje, ed., *Wages of Independence: Capitalism in the Early American Republic* (Madison, WI: Madison House, 1997), 143; Eric Foner, *Free Soil, Free Labor, Free Men: The Ideology of the Republican Party before the Civil War* (New York: Oxford University Press, 1972), 11-39; John Lauritz Larson, *The Market Revolution in America: Liberty, Ambition and the Eclipse of the Common Good* (New York: Cambridge University Press, 2010), 121-22; Rael, “The Market Revolution and Market Values.”

<sup>28</sup> “Bay State,” 55<sup>th</sup> Massachusetts, Palatka, Florida, 10 April 1864, *Weekly Anglo-African* (New York) in Trudeau, ed., 86. Internal evidence in the letter marks him as a Northern black. Emphasis added. See also the former Boston cobbler, Samuel A. Valentine, 54<sup>th</sup> Massachusetts Infantry, Morris Island, South Carolina, *Christian Recorder* (Philadelphia), 27 August 1864 in Redkey, 66 and “Bought and Sold,” a Pennsylvania draftee, 6<sup>th</sup> United States Colored Infantry, Yorktown, Virginia, 8 February 1864 in the 20 February 1864 *Christian Recorder* (Philadelphia) in Redkey, 237.

enfranchisement.”<sup>29</sup> Demanding just pay as one of their soldier rights represented a step toward true self-government within the nation.

The War Department promulgated the new pay policy right as recruiting came to an end for the two Massachusetts regiments. Ordered to join Union forces occupying the Sea Islands, the 54<sup>th</sup> Massachusetts arrived first and made its ill-fated assault before the 55<sup>th</sup> disembarked at Folly Island on 3 August.<sup>30</sup> The soldiers responded to news of the pay policy with a boycott in which their officers initially acquiesced. Despite the Articles of War equating refusal of pay with mutiny, it continued into the next year. Tensions steadily rose between officers and men.<sup>31</sup>

Meanwhile, Massachusetts’s tiny neighbor, Rhode Island, finally began recruiting its first black unit, a heavy artillery company, on 29 July 1863. The governor’s initial attempt to raise a regiment in August 1862 under the Confiscation and Militia Acts had prompted the public meeting above of Providence’s blacks.<sup>32</sup> Their response had been enthusiastic, but at that time Washington was less sanguine. When the War Department finally endorsed black enlistment in Rhode Island, it promised to count those recruits toward the state’s 1863 enlistment quota. Since that meant fewer white men might face conscription, public opinion encouraged the move. Bolstered by a \$300 state enlistment bounty, news of an artillery

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<sup>29</sup> Campbell explained to a meeting of black men that equal pay should be rendered because black and white men both had equal responsibilities to their dependent wives and children. It took “as much money” to “clothe and feed the black man’s wife” and “go to market for the black man’s little boys and girls” as it did for white men. Address delivered at the Methodist Episcopal Sharp Street Church, Baltimore, Maryland, 29 February 1864, collected in Philip S. Foner and Robert James Branham, eds., *Lift Every Voice: African American Oratory, 1787-1900* (Tuscaloosa: University of Alabama Press, 1998), 428.

<sup>30</sup> Schouler, *A History of Massachusetts in the Civil War*, 407, 410, 481. The 55<sup>th</sup> Massachusetts departed Boston on 21 July 1863.

<sup>31</sup> Berlin, et al., *Freedom*, 362–65; Wilson, *Campfires of Freedom*, 45; Susannah Ural, “Introduction” to *Civil War Citizens: Race, Ethnicity, and Identity in America’s Bloodiest Conflict* (New York: New York University Press, 2010), 7.

<sup>32</sup> “The Colored Regiment,” *The Liberator* (Boston), 22 August 1862.

company drew interest not only from blacks in Rhode Island but surrounding states also. Over several months the steady black response led to the formation of additional companies until the War Department had authorized a substantial regiment—1700 men. Despite blacks comprising a tiny minority of the state’s total population, recruits from the Ohio Valley flocked to Company A along with a handful of former slaves.<sup>33</sup> The recruits who organized the 55<sup>th</sup> Massachusetts and the first companies of the 14th RICHA “had reason to believe that they were entering a new world of racial equality, or at least equal compensation and treatment.”<sup>34</sup> That their hopes were ultimately misplaced does not obviate their clear loyalty to both the cause of Union and the civic advancement of their people. If anything, it marks their later military protests as the efforts of loyal citizens exercising their corporate right to alter or abolish their local government rather than subversives aiming to undermine the national war effort.

African American military service occurred within a political whirlwind in which their loyalty to nation was publicly celebrated but defense of their soldier rights was readily squelched. On the one hand, recruits to Company A of the 14<sup>th</sup> RICHA could parade through Providence to the cheers of its white inhabitants and receive their regimental and national colors from Rhode Island’s highest political officials in a public, biracial ceremony.<sup>35</sup> Yet on that same day, 19 November 1863, nine hundred miles to the south emancipated slaves in the

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<sup>33</sup> Howard C. Westwood, “Company A of Rhode Island’s Black Regiment: Its Enlisting, Its ‘Mutiny,’ Its Pay, Its Service” in Westwood, *Black Troops, White Commanders, and Freedmen during the Civil War* (Carbondale, IL: Southern Illinois University Press, 1992), 145–46. Company A, led by Captain Thomas W. Fry, and three others comprised the First Battalion under the command of Major Joseph J. Comstock. The invitation for Rhode Island (and Connecticut) to raise African American regiments came the same month as Massachusetts’s, Smith, “Let Us All Be Grateful” in Smith, ed., *Black Soldiers in Blue*, 24.

<sup>34</sup> Gallman, “Battle of Olustee” in Gallman, *Northerners at War*, 239.

<sup>35</sup> Richard M. Bayles, *History Of Providence County, Rhode Island* (Providence, RI: W. W. Preston & Co, 1891), 246. At a final ceremony on 9 December, an association of women presented a hand-sewn flag to the battalion before Providence’s black leaders addressed the soldiers.

3<sup>rd</sup> South Carolina Native Volunteers mutinied. Led by Sergeant William Walker they refused to “do duty any longer for seven dollars per month.”<sup>36</sup> Walker’s execution on 29 February 1864 after a general court-martial sent shockwaves through Northern black communities. Little wonder that one writer to *The Liberator* explained that because black soldiers had “no rights which Congress or any other white man is bound to respect,” the military’s attitude would be simply, “O if they mutiny, they can be put down with an ‘iron hand.’”<sup>37</sup> The military protest actions of Northern black soldiers were, in fact, attempts to make the ceremonial trappings of citizenship real through self-government within the ranks.

In this charged atmosphere at the end of December, the First Battalion of the 14<sup>th</sup> Rhode Island Heavy Artillery departed on 8 January 1864 for the Gulf Coast to garrison Fort Esperanza on Matagorda Island, Texas. The black soldiers had orders to rebuild the large earthen fort after the retreating Confederate garrison demolished it.<sup>38</sup> This work quickly turned into the thankless, stultifying, and arduous fatigue and garrison duty performed by Union soldiers elsewhere. The malarial conditions and rising humidity made it worse. They

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<sup>36</sup> The South Carolinians had actually received full pay for a few months early in 1863, Berlin, et al., *Freedom*, Documents 158A-E. The standard treatment of the Walker mutiny is Howard C. Westwood, “The Cause and Consequence of a Union Black Soldier’s Mutiny and Execution” in Westwood, *Black Troops*, 125-41. Wilson, *Campfires of Freedom*, 47, 75 and Samito, *Becoming American*, 96-98 also discuss the Walker mutiny.

<sup>37</sup> Jesse Stedman, “Letter to Hon. J. H. Lane,” *The Liberator*, 11 March 1864. Sergeant George E. Stephens of the 54th Massachusetts, sensed the “utter hopelessness of the condition of slavery” even though he was “never a slave.” Stephens feared that it was “the fixed determination of the people of the United States to maintain a line of demarkation between the white and black race, and to deny to the black equal rights and justice,” in George E. Stephens to Robert Hamilton, 6 March 1864, in Donald Yacovone, ed., *A Voice of Thunder: The Civil War Letters of George E. Stephens* (Urbana: The University of Illinois Press, 1997), 299.

<sup>38</sup> William H. Chenery, *The Fourteenth Regiment Rhode Island Heavy Artillery (Colored) in the War to Preserve the Union, 1861-1865* (Providence, RI: Snow & Farnham, 1898), 20, 22; Westwood, 147-48.

certainly did not salve the substandard medical care African American troops shouldered.<sup>39</sup> Atop it all remained the insult of unequal pay.

The second-class status they had lived as Northern civilians, heightened by unequal pay, made these black soldiers alive to additional threats to the citizenship rights that they believed their Army service should be advancing. The protest actions in the two regiments surveyed here divided their members. A majority committed themselves to the boycott campaign. Within that group literate black soldiers leveraged Northern and African American print culture to publicize their plight. Most soldiers also concluded that, alongside the boycott and publicity efforts, loyal service was critical to establishing the moral authority of the soldiers in the eyes of the public and the government. Yet in select moments a smaller number decided that particular violations of their soldier rights required protest actions like insubordination or mutiny in order to advance the claim to self-government.

In fact, the night of the Goliath mutiny, 19 April 1864, marked more than seven months of men in the 55<sup>th</sup> Massachusetts observing the pay boycott. The regimental surgeon contended that, “the non-payment of the men produces in some a marked feeling of insubordination, and exerts on all a depressing influence.”<sup>40</sup> This night also came at the end of the inconclusive, three-month Florida Campaign. Aboard the *Sentinel* and other transports, both Massachusetts regiments returned to the Union garrisons in the South Carolina Sea Islands. The soldiers of the 55<sup>th</sup> had been spared any combat and were temporarily relieved of the enervating “picket, provost, and fatigue duty” at Jacksonville, Florida. It had frayed the nerves of both soldiers

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<sup>39</sup> On the greater fatigue duty assigned African American soldiers and its effects see, Wilson, *Campfires of Freedom*, 39-40; 43-44. On black medical care see, Margaret Humphreys, *Intensely Human: The Health of the Black Soldier in the American Civil War* (Baltimore: Johns Hopkins University Press, 2008); Glatthaar, *Forged in Battle*, 187-95.

<sup>40</sup> Trudeau, ed., *Voices of the 55<sup>th</sup>*, 18-21, surgeon quoted on 21.

and officers. Enjoying a sort of homecoming, Northern blacks and their Southern freedmen comrades roistered below decks late into the night.<sup>41</sup>

One of the participants, Sergeant Sampson Goliah, had to report on deck to Second Lieutenant Josiah A. Bean, for “talking loud and hollering and using some profane language.” Bean had only joined the regiment ten days before and Goliah was a twenty-eight year-old farmer from Kentucky who had served without incident in the 55<sup>th</sup> Massachusetts since its organization at Readville, Massachusetts, in June 1863.<sup>42</sup> As the officer forced Goliah topside, the sergeant objected: “I don’t allow any white man to collar me.”<sup>43</sup> When Goliah emerged on deck he threatened, “You Massachusetts men have been humbugging us long enough. We are going to do as we please after this.”<sup>44</sup> Goliah’s condemnations echo those of a Northern black comrade’s written only days before: “We, by God’s help, will settle it for ourselves before this war is over, *and settle it right too, or die in the attempt.*”<sup>45</sup>

The “humbug” Goliah cited encompassed both general and particular violations of their soldier rights. The grievances of unequal pay, dependents’ destitution, respectability, and officer commissions loomed large, of course. The denial of black commissions specifically

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<sup>41</sup> The Florida Campaign reached its climax with a bloody Union defeat at the Battle of Olustee where the the 54<sup>th</sup> Massachusetts lost 87 men killed, wounded, and missing. The 55<sup>th</sup> was not involved but had remained at Jacksonville. The 54<sup>th</sup> returned to the Sea Islands from Florida two days before the 55<sup>th</sup> Massachusetts. See Trudeau, *Like Men of War*, 137-51, 154; Gallman, “Battle of Olustee,” 247–51; Hondon B. Hargrove, *Black Union Soldiers in the Civil War* (Jefferson, NC: McFarland, 1988), 166; Privates David Wilkins and Charles C. Porter testimony, Goliah court-martial.

<sup>42</sup> Second Lieutenant Josiah A. Bean, 55<sup>th</sup> Massachusetts Infantry Regiment (Colored), CMSR; Bean testimony, charges and specifications, Goliah court-martial; Sergeant Sampson Goliah, 55<sup>th</sup> Massachusetts Infantry Regiment (Colored), CMSR; Private Charles C. Porter testified that Goliah had “performed his duties faithfully,” Goliah court-martial.

<sup>43</sup> Goliah’s words as related in the testimony of Privates Wilkins and Porter, Goliah court-martial. In his testimony, Bean claimed Goliah’s said “he would not go there for any damned white officer,” Bean testimony, Goliah court-martial.

<sup>44</sup> Testimony of Captain William H. Nutt, Goliah court-martial.

<sup>45</sup> “Bay State,” 55<sup>th</sup> Massachusetts, Palatka, Florida, 10 April 1864, *Weekly Anglo-African* (New York) in Trudeau, ed., 87. Internal evidence in the letter marks him as a Northern black. Original emphasis.



touched on three Northern comrades in Goliah's regiment—John F. Shorter, James M. Trotter, and William H. Dupree—who became second lieutenants on paper between March and May. Barred from assuming their new positions within the regiment, they remained de facto non-commissioned officers.<sup>46</sup> Seen in the light of Anglo citizen-soldiers' traditions about rights of election and selection carried forward into the Union Army, the denial of commissioned rank to Shorter, Trotter, and Dupree was an egregious rejection of the War Department authorizing Governor Andrew to organize "persons of African descent...into special corps" alongside "such numbers of volunteers...as he may find convenient."<sup>47</sup>

In the meantime, new white officers like Bean had begun issuing orders and commanding companies. When some "openly boast of having been active participants in the New York riots of last summer," black soldiers like the correspondent "Bay State" naturally asked, "Why is not justice done?"<sup>48</sup> The executions in February 1864 of three comrades also led

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<sup>46</sup> Shorter was commissioned 24 March 1864, Trotter 10 April, and Dupree 30 May, Trudeau, *Voices of the 55<sup>th</sup>*, 62; Berlin, *Freedom*, 308, 337; Hartwell to Massachusetts Governor John A. Andrew, 25 May 1864, and Lieutenant Charles B. Fox's report to Hartwell, 29 July 1864, both in Regimental Letter and Endorsement Book, Vol. 3 of 5, 55th United States Colored Troops, Massachusetts Infantry, Book Records of Volunteer Union Organizations, RG 94 Records of the Adjutant General, National Archives, Washington, D.C. (hereafter 55<sup>th</sup> Massachusetts Letter Book). Trotter felt "my present *double* position is not pleasant," James M. Trotter to Francis Jackson Garrison, 2 August 1864, Folly Island, South Carolina in Trudeau, 143. The three black officers were not finally mustered in and allowed to take their place as officers in the regiment until 1 July 1865, Trudeau, 181.

<sup>47</sup> Stanton, 26 January 1863, "Message of the President."

<sup>48</sup> Josiah A. Bean, 55th Massachusetts Infantry Regiment (Colored), Union Compiled Military Service Records, RG 94 Records of the Adjutant General's Office, 1762-1984, National Archives, Washington, D.C.; Goliah CMSR; quotes come from "Picket," 55<sup>th</sup> Massachusetts, 30 June 1864, *Weekly Anglo-African* (New York) in Trudeau, ed., 113.

Corporal Nelson Browning, one of the convicted mutineers, to plead during the mutiny, “We have had enough of our men killed already.”<sup>49</sup>

Thus, the open air illuminated only by the moonlight and a few candle lamps contained a highly volatile atmosphere. A veteran Vermonter with a positive reputation in the men’s eyes, Captain William H. Nutt, received Bean’s prisoner. Nutt ordered Goliah cuffed and threatened the gag if he continued speaking out.<sup>50</sup> Nutt’s respected reputation might have contained the brewing protest. Bean’s report to Colonel Alfred S. Hartwell that shaped what happened next. Hartwell’s presence also should have alleviated his men’s disgust due to his support so far through recommendations for officer candidates and acquiescing in the pay boycott.<sup>51</sup> Instead, Hartwell inexplicably ordered the boat captain, a white civilian, to securely tie Goliah to the rigging for two hours or until he “suffered to [sic] much.”<sup>52</sup>

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<sup>49</sup> Testimony of Captain William D. Crane, Browning court-martial. Crane recalled a respectful, empathetic exchange with Browning. He believed Browning referred to a soldier shot by an officer at Readville, Massachusetts, in 1863 and two others hanged after trial in February 1864 at Jacksonville, Florida. These were for “heinous” crimes, in Crane’s words. “Heinous” signaled in Victorian language offenses like “murders, rapes, arson,” for example as used in, “Juvenile Crime in New York,” *New York Herald*, 1 February 1858. According to Trudeau, ed., *Voices of the 55th*, 19, in fact, three men were hanged at Jacksonville for raping a white woman. The regimental history prepared by its lieutenant colonel, identifies Private Benjamin Hayes as shot at Readville for resisting a Lieutenant Kingston’s orders, Charles Barnard Fox, *Record of the Service of the Fifty-fifth Regiment of Massachusetts Volunteer Infantry* (Cambridge, MA: Press of J. Wilson and Son, 1868), 5.

<sup>50</sup> Nutt testimony, Goliah court-martial. Private John Posey of Indiana counted Nutt as “a good father to us,” 2 December 1863, to Mathias Embry, in Trudeau, ed., *Voices of the 55th*, 53. Nutt later acquitted himself to the satisfaction of the soldiers during the 30 November 1864 Battle of Honey Hill, South Carolina, braving numerous, costly assaults until his horse was shot out from under him, Sergeant William Scott to Burt G. Wilder, 21 November 1914 in Trudeau, ed., *Voices of the 55th*, 169. By 1865 Sergeant James Trotter classified Major Nutt as “very popular with the Regt and with everybody whose regard is worth anything,” Sergeant James M. Trotter to Edward W. Kinsley, 1 July 1865 in Trudeau, ed., *Voices of the 55th*, 184.

<sup>51</sup> Some soldiers felt genuine affection, like Sergeant Trotter, who wrote, “Everybody is jubilant because of his arrival” from furlough for wounds. “I tell you, sir, that we believe in Col. A. S. Hartwell! He is so true and such a perfect soldier,” James M. Trotter to Edward W. Kinsley, 29 January 1865 in Trudeau, ed., *Voices of the 55th*, 177-78; see also “Mon” to *Weekly Anglo African*, 24 July 1864, in Trudeau, *Voices of the 55th*, 127 and anonymous to Edward W. Kinsley, 2 June 1864 in Trudeau, ed., *Voices of the 55th*, 107.

<sup>52</sup> Testimony of Colonel Alfred S. Hartwell, Bean testimony, Goliah court-martial.

According to the mutineers' words at the time, and at the subsequent court-martial, the colonel's rash decision inflamed the situation.<sup>53</sup>

Many soldiers knew the risks of dissent. For instance, Private John Lewis, previously a waiter from Indianapolis, spoke out against Goliah's arrest and restraint, but ultimately did not join the mutiny because he believed that its participants would surely suffer execution.<sup>54</sup> Nevertheless, many of Lewis's comrades who witnessed the event below decks reacted in "sympathy" to Goliah's predicament.<sup>55</sup> Ninety minutes after the arrest more than a dozen men appeared on deck and ruptured the nocturnal calm. Two men shouted, "Let's cut him down."<sup>56</sup> He "had been tied there long enough" and they demanded Goliah's release or they would do it themselves. According to Browning, even though they knew freeing Goliah was "wrong," his fetters represented a greater wrong.<sup>57</sup> "There are other ways of punishing a man without having him tied up," they asserted. It is a shame" and they "would not allow one of their men tied by a citizen."<sup>58</sup>

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<sup>53</sup> Lorien Foote concludes that even in Anglo regiments "the frustrated officers of the Union Army, faced with continual resistance to authority and constant back talk from soldiers, often resorted to force immediately when a soldier was slow to obey orders," *The Gentlemen and the Roughs*, 156. Steven J. Ramold, *Baring the Iron Hand*, 205, argues that white soldiers "particularly targeted punishments they deemed too harsh or that lasted too long." On white soldiers cutting down comrades tied up for punishment, see Ramold, 363.

<sup>54</sup> John Lewis, 55<sup>th</sup> Massachusetts Infantry Regiment (Colored), CMSR; statement of John Lewis and testimony of Private Alfred Perry, in the general court-martial of Private John Lewis, NN2479, Court-Martial Case Files, RG 153 Records of the Judge Advocate, National Archives, Washington, D.C. (hereafter Lewis court-martial).

<sup>55</sup> Charges and specifications, Bean testimony, and Privates David Wilkins and Charles C. Porter testimony, Goliah court-martial

<sup>56</sup> Charges and specifications, Bean testimony, Goliah court-martial.

<sup>57</sup> Charges and specifications, testimony of Private Peter Adams in the general court-martial of Private Nelson Browning, NN2479, Court-Martial Case Files, RG 153 Records of the Judge Advocate, National Archives, Washington, D.C. (hereafter Browning court-martial).

<sup>58</sup> Charges and specifications, Adams testimony, Browning court-martial. Foote, *The Gentlemen and the Roughs*, 164-65, rightly states that when white officers failed to appreciate the servile overtones of certain disciplinary measures against black soldiers, simple disobedience could escalate into mutiny. With that as a baseline, Colonel Hartwell failed to appreciate how his discipline affronted Northern blacks' convictions about their soldier rights as free citizens and touched off the Goliah mutiny.

Browning, a twenty-year-old farmer from St. Louis, encouraged the mutiny (though he did not join) because he “could not stand it to see one of our men tied up.” An officer called Browning a “moving spirit,” who reminded his comrades gathered below deck, “The man ought not to have been tied up there.” He urged them to, “Untie this man and take him down from there.”<sup>59</sup> Browning admitted when questioned by Hartwell the next day after coming ashore that he had been “angry” over the treatment of Goliah.<sup>60</sup>

An inexperienced and uncertain officer, Lieutenant Bean, stood between the prisoner and a group of steadily advancing soldiers who asserted that the entire boat supported them.<sup>61</sup> The mutineers overwhelmed Lieutenant Bean and his guard, freed Goliah, and broke his handcuffs. Goliah drove Bean to the deck, snatched the .44-caliber Colt Army revolver from his hands, and cocked it. A scuffle of mutinous and loyal soldiers broke out at the same time that other soldiers tried to corral members of the crowd. In this melee, Browning refused to relent and Bean got free as Goliah slipped below.<sup>62</sup>

The mutiny finally came to an end below decks where it had started. Colonel Hartwell, Captain Nutt, and three non-commissioned officers entered the men’s quarters where soldiers—both mutinous and loyal—debated one another.<sup>63</sup> Hartwell demanded silence and

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<sup>59</sup> Private Nelson Browning, 55<sup>th</sup> Massachusetts Infantry Regiment (Colored), CMSR; testimony of Captain William D. Crane, Browning court-martial; Charges and specifications, testimony of John Lewis, Browning court-martial.

<sup>60</sup> Hartwell testimony, Browning court-martial.

<sup>61</sup> Charges and specifications, Bean testimony, Goliah court-martial.

<sup>62</sup> Hartwell testimony, Crane testimony, Adams testimony, Browning court-martial; Bean testimony, Goliah court-martial. The lieutenant thought that Goliah had begun to untie himself with his teeth, but it is clear from other testimony that he was freed with the help of his comrades. Bean’s account of this confrontation with Goliah and his accusation of the cocking of the pistol—a threat of deadly force—used to convict Goliah went uninterrogated.

<sup>63</sup> Bean testimony, Goliah court-martial. Hartwell relied on the non-commissioned officers not only from a sense of procedure, but also perhaps from an acknowledgement that having fellow African Americans summon him would make Goliah more compliant and hopefully diffuse the situation generally.

Nutt convinced most of the men to quickly return to their bunks. A handful remained including Goliah, one of the loudest disputants, whom Nutt insisted bring himself to order. Although it remains unclear exactly what happened next, the sergeant attempted to strike the captain and Nutt retaliated with the flat of his sword. Goliah urged the soldiers to retaliate, then he tackled Nutt when they failed to act. In the altercation, the point of Nutt's sword pierced Goliah and that finally encouraged a couple of reluctant comrades to aid him. Once again, Goliah used the turmoil to slip away. Guards apprehended him about thirty minutes later after clam had been reestablished on the boat. They returned Goliah to the deck and placed new irons on his wrists.<sup>64</sup>

For Northern free blacks, the intervention of a white civilian embodied the racial injustice they knew too well and a violation of their rights as soldiers. What the colonel determined to be a practical matter—relying on the boat captain's expertise in lashing to the rigging—had enormous consequences. More importantly, according to Private Young Gouch, "It would not do for a citizen to tie up one of our soldiers. If one of our own officers had tied him up they never would have said a word."<sup>65</sup> To their minds, the affair had been started by an officer barely removed from civilian life who had not yet earned their trust and respect. The intervention of a civilian outsider in an internal disciplinary matter further transgressed the soldiers' self-government of their volunteer regiment. By taking the oath of allegiance and signing their muster rolls, all the Union's volunteers had freely consented to be bound by the

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<sup>64</sup> Nutt, Hartwell testimony, Goliah court-martial. Goliah claimed he told Nutt not to hit him because he was handcuffed and defenseless, but this is hard to know because elsewhere the officers said his handcuffs had been broken off when he escaped back below decks. And it seems from Bean's testimony they might have been removed when Goliah was tied, Goliah cross-examination of Hartwell, Goliah court-martial. In his final statement, Goliah insisted that he had raised his arms while in handcuffs to protect himself from Nutt, who drew his sword unprovoked, Goliah statement, Goliah court-martial.

<sup>65</sup> Statement attributed to Young Gouch by Private Samuel Phillips in the general court-martial of Private Young Gouch, NN2479, Court-Martial Case Files, RG 153 Records of the Judge Advocate, National Archives, Washington, D.C., (hereafter Gouch court-martial).

Articles of War and the Army regulations. Nothing within them condoned the colonel's course of action. These soldiers in the 55<sup>th</sup> Massachusetts mutinied to ensure that the rights they wanted their military service to secure would not be jeopardized.

Goliah and four other soldiers— Privates Nathan Lane, John Lewis, Nelson Browning, and Young Gouch—faced trial as ringleaders. Convened 7 May 1864 at Folly Island, South Carolina, the testimony from these trials was often contradictory and imprecise. The transcripts are full of hearsay testimony mistakenly (perhaps maliciously) admitted into evidence. Although improper under the law for the determination of guilt, nevertheless, these documents convey the chaotic nature of soldier mutinies. The acceptance of hearsay was one of many flaws in military tribunals.

In his closing remarks to the court before it determined guilt and pronounced sentence, the judge advocate quoted from Articles Seven and Nine of the Articles of War, and from Stephen V. Benét's treatise on military justice that officers widely employed as their handbook when serving on courts-martial. The articles mandated a maximum penalty of death. He reminded the court that the evidence clearly indicated Goliah had been defiant and threatened violence, but asked his fellow officers whether "the acts of the prisoner are of that aggravated [sic] nature called mutiny." He urged the court (only one of whom came from a black regiment) to give weight to Hartwell's and Nutt's testimony of the soldiers' collective grievances regarding their pay which had created "extraordinary circumstances, which by no means excuse, yet mitigate the offense."<sup>66</sup>

Given that the Articles of War stipulated capital punishment for mutiny or an appropriate sentence determined by the court, perhaps the judge advocate's words worked some small

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<sup>66</sup> Statement by the judge advocate, verdict and sentence, Goliah court-martial; verdict and sentence, Lewis court-martial; verdict and sentence, Browning court-martial; verdict and sentence, Gouch court-martial.

benefit for the defendants. Goliah, Lewis, Browning, and Gouch all received a sentence of confinement at hard labor at Fort Clinch, Florida, for the remainder of their enlistments—nearly two years—and the loss of all pay. When their term of confinement concluded, they were to be dishonorably discharged. The department commander approved the sentence without revision.

If there was one short-term victory for the mutineers of 19 April it came through an evolution in their commanding officer's attitude. Hartwell appears to have grown more, not less, sympathetic with his soldiers' predicament. On 23 April he wrote that unequal pay was nothing less than "non-fulfillment of contract" by the government.<sup>67</sup> On 13 May in a concrete act of solidarity with two soldiers who returned late from furlough due to illness, he strongly recommended they be returned to duty without general court-martial.<sup>68</sup> Finally, in the wake of the Goliah mutiny and later acts of insubordination, on 12 June he argued to Governor Andrew that the soldiers' sense of broken "trust"<sup>69</sup> in white authority evidenced in the mutiny had seriously jeopardized the regiment's "proper efficiency and military pride."<sup>70</sup>

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<sup>67</sup> Colonel Alfred S. Hartwell to Lieutenant Colonel E. W. Smith, Assistant Adjutant General, Department of the South, 23 April 1864, 55<sup>th</sup> Massachusetts Letter Book; Wilson, *Campfires of Freedom*, 53-58; Donald Yacovone, "The Pay Crisis and the 'Lincoln Despotism,'" in Blatt, et al., *Hope and Glory*, 45. Yacovone elsewhere in this essay gives the impression that Hartwell was an unsympathetic commander and a martinet, but that seems at odds with the soldier letters in Trudeau, the historical portrait of him by Wilson and Samito, and his official correspondence in the records at the National Archives. Trudeau, ed., *Voices of the 55<sup>th</sup>*, 244, assesses him as "the best officer to lead the 55<sup>th</sup>."

<sup>68</sup> Colonel Alfred S. Hartwell to Lieutenant W. R. Dean, Acting Assistant Adjutant General, Department of the South, 13 May 1864, 55<sup>th</sup> Massachusetts Letter Book.

<sup>69</sup> Colonel Alfred S. Hartwell to Massachusetts Governor John A. Andrew, 12 June 1864, 55<sup>th</sup> Massachusetts Letter Book.

<sup>70</sup> Colonel Alfred S. Hartwell to Lieutenant Colonel E. W. Smith, Assistant Adjutant General, Department of the South, 23 April 1864, 55<sup>th</sup> Massachusetts Letter Book.

Hartwell contended “it is difficult to make them endure longer” and wondered how he and his officers could possibly “exercise further military authority.”<sup>71</sup>

White officers who testified in the courts-martial viewed the character of black soldiers’ service through their own understanding of the soldier rights belonging to citizens in uniform. Colonel Hartwell explained that, “Because the Regiment had not been paid at all—nor offered pay according to terms of enlistment,” dissatisfaction had gradually increased to a crisis point. Captain William H. Nutt likewise believed his soldiers’ “grumbling” stemmed from their pay diverging from “the terms of their enlistment” assured by Massachusetts.<sup>72</sup> The Army’s unilateral reduction in pay had violated the principles of self-government. The volunteer soldier—black or white—freely offered his loyal service to the nation as member of a corporate body according to specific terms of enlistment.

Only ten days after the Goliah mutiny, another episode of unjust discipline sparked several more mutinies over the men’s soldier rights. A camp life of drill and fatigue had by then again become routine for the 55<sup>th</sup> Massachusetts. Second Lieutenant Thomas F. Ellsworth ordered the men of Company I onto the parade ground for afternoon inspection. As his comrades hurried into formation, Private Richard Morrison arrived late and unprepared. Thirty minutes earlier the orderly sergeant had instructed him to clean a rifle that was not his. The task that usually took a couple of hours remained unfinished.

Like Josiah Bean, Ellsworth was a replacement officer for Company I who arrived in February 1864. Ellsworth went on to be a gallant soldier and a Medal of Honor recipient, but

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<sup>71</sup> Colonel Alfred S. Hartwell to Massachusetts Governor John A. Andrew, 12 June 1864, 55<sup>th</sup> Massachusetts Letter Book.

<sup>72</sup> Hartwell made these remarks in response to a question by the judge advocate, Captain James M. Walton of the 54<sup>th</sup> Massachusetts, as to whether there was any “general dissatisfaction” in the regiment at the time, Hartwell testimony, Goliah court-martial; Nutt testimony, emphasis original, Goliah court-martial.



all of that lay ahead. In the spring of 1864, he had been an officer in the company for only a few months. Northern citizen-soldiers—black or white—would have instinctively understood their company and the regiment as more theirs than his. More importantly for blacks, whether Northern freemen or emancipated slaves, Ellsworth’s sympathy to their racial cause remained unknown.<sup>73</sup>

As explained in Chapter II, the regimental camp’s layout as structured by the regulations in turn structured the place, timing, and nature of officer-soldier interaction. Company streets directed the flow of movement and information. The guard house held prisoners and represented sanctioned military discipline, not officers’ capricious punishments meted out in the moment. The parade ground formed the regiment’s public square for the reading of orders, undergoing inspections, and the recognition of meritorious conduct. But it could also be used to shame drunks who sat upon ridiculous wooden horses all day, to march insubordinate soldiers in unending tracks wearing a full pack, or tie up recalcitrant men for the entire regiment to witness. The parade ground also became the site of public execution, in the sight of all officers and men, for soldiers’ convicted of capital crimes.<sup>74</sup> It is no coincidence that Northern black citizen-soldiers performed military protest actions in defense of their right to self-government on the public spaces of their camps. Like its urban centers,

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<sup>73</sup> Trudeau, ed., *Voices of the 55<sup>th</sup>*, 9, 163n. The first officer commissioned to the 55th was Second Lieutenant Leonard Alden, 55<sup>th</sup> Massachusetts Infantry Regiment (Colored), CMSR, who died of chronic diarrhea on 5 October 1863. In October 1863 Governor Andrew had appointed the 23-year-old Ellsworth, previously a corporal in the 2nd Massachusetts, to the 55<sup>th</sup>. At the 20 November 1864 Battle of Honey Hill Ellsworth risked his own life to drag the grievously wounded Colonel Hartwell to safety, Second Lieutenant Thomas F. Ellsworth, 55<sup>th</sup> Massachusetts Infantry Regiment (Colored), CMSR.

<sup>74</sup> United States War Department, *Revised United States Army Regulations of 1861 with an Appendix Containing the Changes and Laws Affecting Army Regulations And Articles Of War to 25 June 25 1863* (Washington, D.C.: U.S. Government Printing Office, 1863), Thirty-Fifth Article of War; Wilson, *Campfires of Freedom*, 7, 10, 13-14; Ramold, *Baring the Iron Hand*, 365–68.

regimental camps became stages on which African Americans in uniform defined the boundaries of military self-government.

Company streets, like city streets, moved foot traffic, but also provided thoroughfares for public displays. For instance, black New Yorkers had held a vibrant, festive parade on 5 July 1855 to celebrate the twenty-eighth anniversary of state Emancipation Day. Antebellum cities also featured a central open-air gathering place quite similar in function to the parade ground. These became citizens' "public arenas in which popular sovereignty could be exercised."<sup>75</sup> Because citizenship had such a public dimension in the antebellum era, military dissent unfolded out-of-doors. It was also done in cooperation with fellow soldiers. Northern blacks' mutinies revealed their deployment of these mentalities and habits of self-government—similar in important ways to those of Anglos surveyed herein—in the Army during wartime.

The 29 April confrontation on the regiment's parade ground unfolded almost identically to the Goliah mutiny. Keen to prove his fitness for command, Ellsworth confronted Private Morrison for violating regulations, in this instance about maintaining his government-issued weapon. The private tried to explain he was not at fault; the rifle was not his. Ellsworth balked at the story and ordered that Morrison would stand at attention for two hours with a full pack if the rifle was not cleaned. Rather than speaking out publicly like Goliah, however, Morrison maintained his rectitude by refusing to obey. After company inspection, he walked up the company street to the lieutenant's tent to plead his case again. Although Morrison insisted later that he remained calm, according to Ellsworth and other witnesses he eventually unleashed a tirade, brought to frustration like Goliah. "The damned old gun is not mine and I

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<sup>75</sup> Mary P. Ryan, *Civic Wars: Democracy and Public Life in the American City during the Nineteenth Century* (Berkeley: University of California Press, 1997), 31, 40; Alexander, *African or American?*, 140.

won't clean it...I'll have my supper first. Damned if I won't." Ellsworth ordered him to the guardhouse, but Morrison stalked off in the direction of the cookhouse yelling, "I tell you, Lieut., I won't go until I get my supper" and "will swear as much as I damn well please."<sup>76</sup> Ellsworth ordered a detail of two soldiers with a sergeant to arrest him.

Unlike Goliath constrained aboard a ship, Morrison used his intervening walk to poise himself and instead proceeded to the guardhouse as ordered. By the time Ellsworth and his detail arrived there thirty minutes later, Morrison had requested that the officer of the guard, Captain John Gordon, send for Colonel Hartwell. Under the Articles of War a soldier could appeal to his colonel if he believed "himself wronged by his Captain or other officer." The Articles even provided soldiers with the mechanism of a formal, written complaint that could initiate a regimental court-martial.<sup>77</sup> "I will report you to the Colonel tomorrow, [even] if I have to run the guard." When Hartwell did not appear, Ellsworth managed to have the private confined until further orders. The general court-martial convened in May found Morrison guilty of disobedience of orders and disrespect to a superior officer. This lesser charge spared Morrison a dishonorable discharge, but he still endured three months of hard labor at Fort Clinch, Florida, and the loss of all pay.<sup>78</sup>

While marking time at the guard house, Morrison explained to Captain Gordon that he would heed "no white officer," but obey "only as far as he was mustered."<sup>79</sup> The nineteen

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<sup>76</sup> Charges and specifications, Ellsworth testimony, and Morrison statement in the general court-martial of Private Richard Morrison, 55<sup>th</sup> Massachusetts Infantry Regiment (Colored), 24 May 1864, NN2479, Court-Martial Case Files, RG 153 Records of the Judge Advocate, National Archives, Washington, D.C. (hereafter Morrison court-martial). For a similar episode among whites, see Foote's discussion of the case of Private James Weir in the 5th New York, counted as "one of thousands" of similar episodes in the wartime Army, 154. On the inferior clothing and equipment issued to black troops, see Wilson, *Campfires of Freedom*, 62.

<sup>77</sup> Article Thirty-Five, Revised United States Army Regulations, 481.

<sup>78</sup> Charges and specifications, Ellsworth testimony, and Morrison statement, Morrison court-martial.

<sup>79</sup> Gordon testimony, Morrison court-martial.

year-old former waiter from Hamilton, Ohio had succinctly pinpointed the degree to which Northern blacks' participation as citizens in the antebellum political culture of self-government engendered their sense of rights while in uniform.<sup>80</sup> Morrison merely echoed the same argument as other Northern black soldiers in the Massachusetts regiments about unequal pay: it violated the promise extended to them at muster-in that they would be granted the same privileges and rights as other soldiers mustered by the state into Federal service. And like the Northern black protest tradition generally, it was framed both in terms of race and within the broad political culture of the antebellum North. Furthermore, he laid claim to a legal right of interposition from his colonel specifically by virtue of his soldier status. In these ways Northern black citizen-soldiers drew on the same popular constitutional tactics as the men of the Anderson Cavalry, the 9<sup>th</sup> New York, or the 133<sup>rd</sup> Pennsylvania in Chapters II and III.

Historians who have seen the equal pay crisis only from the perspective of race must also recognize its rootedness in Northern black soldiers' sense of themselves as loyal citizens fully competent in the habits of self-government. Their military protest actions such as mutinies and insubordination during this critical period in turn reflect the pay crisis as a key wartime expression of antebellum Northern political culture, not only the strivings of a single race for greater equality.

More conflict concerning the extent and application of officers' authority over citizen-soldiers erupted two days later between Lieutenant Ellsworth and Private Wallace Baker. The action unfolded again on the public space of the parade ground and began like the incidents involving Goliah and Morrison over the violation of camp regulations. On this occasion it

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<sup>80</sup> Private Richard Morrison, 55<sup>th</sup> Massachusetts Infantry Regiment (Colored), CMSR.

was Baker's tardiness to inspection without his equipment in proper order. Ellsworth ordered Baker back to his quarters until called to perform his punishment of knapsack drill supervised by the orderly sergeant.

If there had been such a unit in the 55<sup>th</sup> Massachusetts, Baker might have been a candidate for the company's "awkward" squad, a practice used in some regiments to assign additional instruction and drill to men who literally could not stand straight in line, march, or perform the manual of arms properly. One comrade found him not "very rational" and another admitted, "he was thought simple in the company." He also had a reputation for talking back after the orders of sergeants, "because he thought he ought not to be ruled by another man."<sup>81</sup>

Baker said he would not hurry to comply and, when ordered to his quarters, he took a far different tack from Morrison two days earlier. Baker removed all of his equipment and reappeared in the ranks for inspection. His comrades burst into laughter. His return to inspection with no equipment ridiculed Ellsworth's authority through his own ridiculous response. But his protest of mockery also had rational underpinnings. It occurred publicly on the parade ground. Baker took an unreasonable step to shed light on the unreasonableness of the lieutenant's treatment of the men. It occurred only two days after the disgust recently engendered within I Company by Lieutenant Ellsworth's unreasonable treatment of Morrison. Furthermore, it challenged the legitimacy of a new white officer like Lieutenant Bean, whose arrest of Sampson Goliath less than two weeks earlier had sparked the shipboard mutiny, itself rooted in the broad military protest movement initiated with the pay boycott.

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<sup>81</sup> Testimony of Privates Morris Carnell and Henry Call, respectively, in the general court-martial of Private Wallace Baker 55<sup>th</sup> Massachusetts Infantry Regiment (Colored), 17 May 1864, LL2112, Court-Martial Case Files, RG 153 Records of the Judge Advocate, National Archives, Washington, D.C. (hereafter Baker court-martial).

When Ellsworth finally ordered Baker to begin the punishment the private echoed Goliah and Morrison: “I won’t stand to attention for you or any other damned white officer.” Ellsworth grabbed Baker by the collar before he retaliated with two blows to the face. A desperate struggle unfolded in which both men traded blows until Captain Gordon intervened. Gordon dispersed the crowd that had gathered. Embarrassed and angry, Ellsworth seized Baker by the throat. Still, the private refused knapsack drill; he preferred confinement at the guard house. Gordon convinced Ellsworth to agree. No sergeants appeared to take Baker to the guard house, and it fell to the two officers. The sergeants’ refusal to escort Baker to the guard house probably manifested their own discontent with the lieutenant. Baker ended his mutiny confined at the guard house and bucked (tied so that he could not move) indefinitely.

All of these mutinies in the 55<sup>th</sup> Massachusetts had in common that Northern black soldiers believed they had certain rights because they were soldiers; these were rights they could define; these definitions required defense; and that defense could include physical forms of protest.

As a black Michigander in the 55<sup>th</sup> had explained at the year’s opening, Northern black men like him had enlisted “for the love of our country, and the love of a free government based upon terms of equality. We...were told that we would be accepted by the U.S. Government, on the same terms as her other Regiments.” Free government meant nothing to citizens in uniform if they could not have some say in their military lives. But if men in uniform did govern their own affairs, they might blaze a path for the entire race in mainstream society. Fighting in the Army served “not only to make men of ourselves, but of our colored brothers at home.” Their civic manhood gained practical expression by

exercising the attributes of “free government” enshrined in their soldier rights. Northern black citizen-soldiers saw the pay boycott and mutiny as legitimate means to secure such principles. As one of them stated, “It is the principle...that made us men when we enlisted.”<sup>82</sup>

The unjustified arrest of Goliath and his illegal restraint by a white civilian ran contrary to these expressions of self-government and in turn, justified protest to press their status as citizens in uniform. The general grievances of the Northern black military protest movement—unequal pay, commissions, and unfair treatment—enmeshed soldiers’ specific complaints in the even older tradition of antebellum black activism on behalf of full equality for African Americans. The 55<sup>th</sup>’s July 1864 petition drive indicated more good evidence of this. Individual companies submitted petitions to President Lincoln reiterating the soldier movements’ well-worn grievances regarding equal pay. Enlisted as soldiers of the state of Massachusetts “in all respects as to pay on the footing of similar corps of the Regular Army” their lower rate of pay “was not according to our enlistment” and they were “enlisted under false pretence [sic].” Yet, they had left behind friends and kin “to fight for liberty, justice, and equality.” Undeterred by the events described above, the petitioners felt emboldened enough to promise a “resort to more stringent measures” if their “demanding our pay from the date of our enlistment & our immediate discharge” was not answered.<sup>83</sup>

Much like the 55<sup>th</sup> Massachusetts, Company A of the 14<sup>th</sup> Rhode Island Colored Heavy Artillery (RICHA) served most of its war in dreary garrison duty, first on the Texas coast and later in Louisiana.<sup>84</sup> Although assigned to the war’s margins, two protest actions in the 14<sup>th</sup>

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<sup>82</sup> “Wolverine,” “A Letter from Our Soldiers,” *The Christian Recorder* (Philadelphia), 2 January 1864.

<sup>83</sup> “We, the members of Co. D of the 55<sup>th</sup> Massachusetts Vol.” to the President of the United States, 16 July 1864, Folly Island, South Carolina, in Trudeau, ed., *Voices of the 55<sup>th</sup>*, 116-118. Seventy-four names are attached to this petition including Nathan Lane, acquitted for his role in the mutiny.

<sup>84</sup> Westwood, “Company A,” 160.

RICHA in 1864 give additional examples of Northern blacks' definition of their soldier rights. The movement in 1864 of the First Battalion, 14<sup>th</sup> RICHA from its home state to Matagorda Island on the Texas Gulf Coast had kept it in advance of any paymasters. As a result, the men had not seen any pay since their \$300 state bounty at muster-in. The soldiers in Company A, however, trusted the state's 1863 call that had promised them the "same rights and privileges as are given to other soldiers." Thus far no pay boycott had been initiated although they knew quite well that other black soldiers in United States service were receiving \$7 a month.<sup>85</sup> This confidence suddenly evaporated on St. Patrick's Day when unexpected roll call brought the men of Company A onto the parade ground. They feared that by answering they would have been tricked into publicly assenting to decreased pay. When the sergeants answered the roll call with silence the privates followed suit.<sup>86</sup>

Major Comstock, although sympathetic to the men's fears, believed the "silent roll call" merited a firm response for the sake of the battalion's good order. Yet he submitted charges not of insubordination or mutiny, but to the much less serious offense of conduct prejudicial to good discipline. Between 23 March and 1 April nearly all of the non-commissioned officers and privates involved received guilty verdicts. While the privates forfeited any pay and did three months of hard labor on Matagorda Island, the "noncoms" not only lost their

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<sup>85</sup> Westwood, "Company A," 149.

<sup>86</sup> Westwood, "Company A," 149-51. A second call was announced after Major Comstock assured the men that it had nothing to do with the amount of their pay. All responded immediately. Westwood dismisses the notion that the mutiny centered on discontent with unequal pay. Westwood sees these incidents as illustrative of white racial attitudes toward African Americans that condoned harsh, peremptory treatment against "an alien breed." Yet Westwood's analysis fails to acknowledge the participants' concepts of soldier rights drawn from their participation in Northern political culture.



pay and rank, but earned hard labor for periods of six months to a year at Fort Jefferson in the Dry Tortugas, coral isles southwest of the Florida Keys.<sup>87</sup>

In the midst of these court-martial proceedings, a dramatic mutiny occurred on the afternoon of 30 March 1864. This incident, like those in the 55<sup>th</sup> Massachusetts, arose from abusive treatment by the officer of the day, Second Lieutenant Charles H. Potter, when he struck two inebriated soldiers with a strap of rawhide and threatened to shoot them if they did not accompany him to the guard house. Soldiers stepped into the company streets to observe the commotion. Another former waiter, this time twenty-one year old Corporal Charles Cooley from New Jersey, rashly dared Potter to pull the trigger.<sup>88</sup>

Potter's person and position clashed with the complex sense of soldier rights among Northern blacks. Of course, his race severed his relationship to them as fellow citizens in the ranks. Furthermore, worse than being a newcomer to their company like Bean and Ellsworth in the 55<sup>th</sup> Massachusetts, he was an officer from an entirely different company.<sup>89</sup> Northerners' beliefs about the corporate rights that belonged to voluntary associations were at work here. Company A had been Rhode Island's original heavy artillery unit; organized by specific direction of the War Department prior to it authorizing an entire regiment. Although their company had been brigaded with other similar companies, its members nevertheless retained the integrity of their own organization.

Defending these soldier rights in the military had enormous import for their claims to full citizenship in civilian life. Potter ordered Corporal Cooley to report to him later that day. As

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<sup>87</sup> Westwood, "Company A," 151-52, 154. The "strong fortification" there evoked an air of "solitude brooding" and seemed the very "idea of solitary imprisonment" instantiated in brick and mortar according to one correspondent, "The Dry Tortugas," *Vincennes Weekly Western Sun* (Vincennes, Indiana), 5 August 1865.

<sup>88</sup> Westwood, "Company A," 152-53, Charles Cooley, 11<sup>th</sup> United States Colored Heavy Artillery, CMSR.

<sup>89</sup> Second Lieutenant Charles H. Potter, 11<sup>th</sup> United States Colored Heavy Artillery, CMSR.

their voices rose and roused soldiers from their bunks, Private William H. Smith overheard the officer boast that on Rhode Island soil he would have shot Cooley for his earlier remarks without hesitation. Cooley countered that he doubted Potter “would have any better right to shoot him in Rhode Island for nothing then [sic] he did here.”<sup>90</sup> Potter rose to thrash the private, enraged by his response. Cooley grabbed the lieutenant’s sidearm, but Potter fired a derringer into the back of his head and the corporal dropped to the ground. The gunshot brought additional men, like Corporal John Lane, out of their tents to witness Cooley bleeding out from the wound. He avowed, “If we are to be shot by our own officers I am willing to die now.”<sup>91</sup> Sergeant William D. Harris questioned why white soldiers did not suffer such injustices. Smith, Lane, Harris, and others encouraged more men to occupy the company streets. Threats against Potter’s life soon filled the air.<sup>92</sup>

Lieutenants Charles Chase and Rowland Hazard rushed from their quarters to calm the enraged soldiers who had gathered around. Concerned to prevent any violence, the subalterns worked hard to hustle the men back to their tents. Private William H. Smith told Lieutenant Chase, “We have stood this as long as we are agoing to, we are ready to die, and we will do it here.” He and many others refused to leave the streets when ordered. In the wake of the

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<sup>90</sup> Private William H. Smith to Stanton, appended to Private William H. Smith general court-martial, 14 April 1864, LL1891, Court-Martial Case Files, RG 153 Records of the Judge Advocate, National Archives, Washington, D.C. (hereafter William Smith court-martial).

<sup>91</sup> Charges, William Smith court-martial; Chase and Hazard testimony in general court-martial of Private Sam A. D. Douglass, 15 April 1864, LL1891, Court-Martial Case Files, RG 153 Records of the Judge Advocate, National Archives, Washington, D.C. (hereafter Douglass court-martial); one witness during the subsequent trials of the men charged with mutiny claimed Cooley was shot in the back of the head, Westwood, “Company A,” 153, 158. Before war’s end, Potter amassed quite a record of drunk and disorderly conduct himself, Potter, 11<sup>th</sup> United States Colored Heavy Artillery, CMSR.

<sup>92</sup> Sergeant William D. Harris, testimony in his general court-martial, 14<sup>th</sup> Rhode Island Colored Heavy Artillery, 20 April 1864, NN1688, Court-Martial Case Files, RG 153 Records of the Judge Advocate, National Archives, Washington, D.C. (hereafter Harris court-martial); Corporal John Lane, testimony in his general court-martial, 14<sup>th</sup> Rhode Island Colored Heavy Artillery, 8 April 1864, LL1830, Court-Martial Case Files, RG 153 Records of the Judge Advocate, National Archives, Washington, D.C. (hereafter Lane court-martial); Westwood, “Company A,” 155-56.

courts-martial and burning with outrage over Cooley's shooting, he symbolically rejected his contract with the government and any further obligation to obey. He shook his fist at the officer and began to remove his uniform coat. "This ain't agoing to do, this work has gone far enough by God I am ready to die."<sup>93</sup>

News of the mutiny alarmed Gulf Department commanders enough that they marched a nearby regiment to Fort Esperanza to deter any further insubordination.<sup>94</sup> The mutiny squelched, five privates, two corporals, and one sergeant faced general courts-martial on 8 April. The court found all of these men guilty of mutiny and they received sentences like that handed down to William Smith: five years of hard labor at Fort Jefferson and the loss of all pay. Brigadier General FitzHenry Warren subsequently reduced his confinement to the end of his enlistment contract on 13 August 1866.<sup>95</sup>

Only two days before President Lincoln's assassination, Smith addressed to the Secretary of War a "petition to you for my release." By then incarcerated at Fort Jefferson nearly a year, this Ohio soldier profiled above made sure to contextualize his appeal within a framework of loyalty and allegiance. He had "vollunteered my service" as "my feble part to help crush this wicked rebellion" for the "maintainence of the nationality of our country."<sup>96</sup>

Smith retold his version of the Cooley shooting as a violation of their soldier rights. In so doing it was exemplary of the mentality Northern free blacks hoped military service would

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<sup>93</sup> Charges, Lieutenants Charles Chase and Rowland Hazard testimony, in William Smith court-martial.

<sup>94</sup> Charges, Chase testimony, and Hazard testimony, William Smith court-martial; Chase and Hazard testimony, Douglass court-martial. One witness during the subsequent trials of the men charged with mutiny claimed Cooley was shot in the back of the head, Westwood, "Company A," 153, 158.

<sup>95</sup> Verdict and sentence, William Smith court-martial; Brigadier General FitzHenry Warren review, 22 April 1864, appended to William Smith court-martial; Private William H. Smith, 11th United States Colored Heavy Artillery, CMSR. According to Westwood, "Company A," 156, the sergeant and one private had their prison sentences reduced to three months of hard labor on Matagorda Island.

<sup>96</sup> Smith to Stanton, 12 April 1865, appended to William Smith court-martial.

stamp out and against which their boycotts, disobedience, and mutinies pointed. “Any man who has been living under a free government” and “serving my country as a soldier,” “knows what belongs to manhood.”<sup>97</sup> Smith could have cited the twenty-fourth Article of War to the effect that, “no officer or soldier shall use any reproachful or provoking speeches or gestures to another.”<sup>98</sup> Even more, self-government meant they “cannot but help but say something against such mode of treatment” to “which our men have been subject since we have been in the service.” Northern black soldiers had spoken not only with words, but with the pay boycott, with petitions, and with protest actions like insubordination and mutiny. Therefore, “I expected to be treated in a manner by our officers[,] who pretend to coincide with us in this struggle as men[,] which inspires vigor into a soldier,” not merely “living to the restoration of peace.”<sup>99</sup>

### ***Conclusion***

Association as officers and men in a regiment pledged to defend the promise of self-government demanded Northern black citizen-soldiers reasserting, through mutiny when necessary, their individual and corporate rights of self-government. Military protest actions should not be dismissed as only about issues of fair and equal treatment of soldiers. Through the artifice of soldier rights, black volunteers and their community consciously linked this service to the nation and their race with their struggle for rights elsewhere. These soldiers’ protests—by Northern and Southern black comrades—became early declarations of the potent civic membership of all African Americans, and rested upon their creditable military service in the war for the Union. A scholar of black Civil War veterans observes that,

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<sup>97</sup> *Ibid.*

<sup>98</sup> *United States Army Regulations*, Twenty-Fourth Article of War, 489, emphasis added.

<sup>99</sup> Smith to Stanton, 12 April 1865, appended to Smith court-martial.

“African Americans never forgot their military service and never forgot that this duty occurred in a war that freed their race and made them citizens.”<sup>100</sup>

The kinds of dissent within Northern black regiments paralleled Northern African Americans’ efforts at home to push for emancipation and civil rights during the war. In October 1864 African Americans at the National Convention of Colored Men held in Syracuse, New York, founded the National Equal Rights League and published an “Address to People of the United States,” arguing that blacks’ military service had “entirely swept away” the old “frivolous, but somewhat decent apology for excluding us from the ballot-box.” Suffrage belonged to African Americans not only because of the natural equality espoused in the Declaration of Independence, but as the “conventional right” of a population who had “fully earned” their right of self-government through military service.<sup>101</sup>

This wartime convention's specific claims echoed arguments made before the war. For example, the Philadelphia Convention of the People of Color in 1855 asserted the personhood of blacks under the Constitution’s definition of congressional apportionment in order to claim the Fourth Amendment’s protections “to be secure in their persons” and the Fifth Amendment’s guarantee of due process. Until slavery was “peacefully, lawfully, and

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<sup>100</sup> Barbara Gannon, *The Won Cause: Black and White Comradeship in the Grand Army of the Republic* (Chapel Hill: University of North Carolina Press, 2011), 63, and further, 155, 162. Gannon’s work sees the GAR as a biracial organization that preserved a Northern memory of the war linking Union and emancipation as a single “won cause.” Contrast this with the earlier work of Stuart McConnell, *Glorious Contentment: The Grand Army of the Republic, 1865–1900* (Chapel Hill: University of North Carolina Press, 1992) which presented the veterans organization as a thoroughly white association which mirrored the racial compromises of the postwar era.

<sup>101</sup> Joseph P. Reidy, “The African American Struggle for Citizenship Rights in the Northern United States during the Civil War” in *Civil War Citizens: Race, Ethnicity, and Identity in America's Bloodiest Conflict*, Susannah J. Ural, ed. (New York: New York University Press, 2010), 228; “Address to the People of the United States, National Convention of Colored Men, 4 October 1864, quoted in Erica L. Ball, “From Elevation to Uplift: Gender, Citizenship, and Northern Black Political Culture on the Eve of the Civil War” (PhD diss., City University of New York, 2002), 170-71, 173.

constitutionally” abolished, African Americans’ civil and political rights, including the franchise, would continue to be squelched.<sup>102</sup>

The Negro Convention movement born in the antebellum years continued during and after the war. In September 1865 the National Convention of Colored Men created a new organization, the National Equal Rights League, to press for blacks’ civil and political rights made possible by the “loyalty, patriotism, and devotion displayed by colored soldiers during the conflict.” It encouraged emancipated slaves to pursue self-improvement along the lines Northern blacks had for decades. The “necessity” of “acquiring property,” “educating their children and themselves,” and “pursuing a course of conduct” that was respectable would “elevate” them above their current station.<sup>103</sup>

William D. Forten, one of the most highly praised and well respected members of the black abolitionist cause, wove together self-government and loyalty when he addressed the League on the second day of its national convention in 1865. He echoed the mutual protest efforts of Northern and Southern blacks soldiers when he insisted African Americans across the country “must be a unit,” “must rally,” and effect “unison of action and intent” to “concentrate our energies and efforts with those of others whom we can influence.” Only then could “those rights which are ours” through “the sacrifice of thousands of our brothers on our country’s altar” be secured. Forten coined the stirring, potent motto “Freedom to all, and all enfranchised” to encapsulate need for a nationwide African American movement for citizenship. To this end, the national League would harness associational culture to assist the

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<sup>102</sup> “Address to the People of the United States,” *Frederick Douglass' Paper* (Rochester, NY), 23 November 1855.

<sup>103</sup> Proclamation of the National Equal Rights League, 1865 in Philip S. Foner and George E. Walker, eds., *Proceedings of the Black National and State Conventions, 1865-1900* (Philadelphia: Temple University Press, 1986), 1:56.

creation of local bodies in order to “resist the overriding tyranny of a united, powerful, and unprincipled majority.” Forten declared that a national network of leagues “embodies our desires, and gives force and pertinence to that resistance to tyranny, which it becomes us to make, as a people resolved to be free....and, in a word, makes us upright.”<sup>104</sup>

Union victory and ratification of the Thirteenth Amendment near the war’s end officially secured the long delayed dream of emancipation. The equally enormous project of defining freedom’s content lay ahead. It would not be consummated in the lifetimes of the Civil War generation. Nevertheless, at the time the North’s older black civilian leadership and a new cohort of citizens in uniform believed they stood on the verge of full citizenship under the law. As early as December 1865 African Americans in Washington, D.C., addressed Congress for the suffrage and took pains to note that, “out of a population of less than 15,000, we have contributed three full regiments, over 3,500 enlisted men” compared to the 1,500 white soldiers drawn from the District’s population of 60,000. Military service had proven blacks’ wartime loyalty. Flushed with hope for the future, they extolled their qualifications for inclusion. “We are intelligent enought [sic] to be industrious; to have accumulated [sic] property; to build, and sustain churches, and institutions of learning....and possess ourselves of the blessings attendant upon a life of industry, of self-denial, and of virtuous citizenship.”<sup>105</sup> In the coming years many of these goals were realized, in some cases explicitly through the leadership of Northern black citizen-soldiers, such as the petition

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<sup>104</sup> Proclamation of the National Equal Rights League, 1865 in Foner and Walker, eds., 60-61.

<sup>105</sup> John Francis Cook, et al., to the Honorable Senators and Members of the House of Representatives in Congress Assembled, December 1865, in Ira Berlin, ed. *Freedom: a Documentary History of Emancipation, 1861-1867*, Series II, *The Black Military Experience* (New York: Cambridge University Press, 1982), Document 363. The editors note the petition had roughly 2500 names appended.

of Iowa blacks in the 60th U.S. Colored Infantry that linked military service and the right to vote.<sup>106</sup>

Northern blacks' military protest actions and their cooperation with African American private citizens during the war revealed the complicated relationship between race and loyalty. Northern blacks came to the colors out of allegiance to the national government. This sense of loyalty stemmed from their participation in antebellum political culture. It had led them to see the possibilities of full citizenship within the web of associational rights and responsibilities under a federal Union. Nevertheless, loyalty to the country's founding ideals had established a long tradition of protest against inequality and disfranchisement. During the war it turned them into critics of the national government's policies toward black soldiers. Northern black soldiers reared in this culture fixed on their status as loyal defenders of the republic to claim a particular body of soldier rights. Wartime also drew their recently emancipated comrades into league with them. Allegiance to the nation had bestowed the status of soldier that carried with it an expectation of self-defined soldier rights. In Northern regiments both free and freed African Americans risked charges of disloyalty to defend these rights. Thus the associational logic attached to membership in the Army made possible military protest actions against the Army's policies and the unjust authority some white officers exercised. Northern black soldiers resolved conflicting loyalties to the national government and to the national creed through military protest.

Northern free blacks in and out of uniform contributed to carrying the Civil War beyond emancipation and abolition and implicated it in the American experiment with self-government. Logan's three identities of soldier, citizen, and legislator seem especially

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<sup>106</sup> Reidy, "The African American Struggle for Citizenship Rights," 230-31.



appropriate for the Northern blacks who staged military protest actions made under the rubric of soldier rights informed by their own antebellum culture of dissent. Their actions contributed to tangible gains regarding pay, status, and treatment within the Army; gains which demonstrated African American citizens in uniform not only serving on an equal basis with white soldiers, but governing themselves like white soldiers always had. For this salient reason military protest actions by Northern blacks should be seen as a crucial link in the chain between antebellum protest culture and the efforts for full citizenship in Reconstruction and beyond. The following two chapters will move this story in exciting, but crucially unique, ways to the freedmen-soldiers who made up the bulk of the U.S. Colored Troops. In regiments across the occupied South they too performed stultifying garrison duty in places like Fort Jackson, guarding the approaches to New Orleans, Louisiana.

CHAPTER V  
“WE WANT TO BE TREATED LIKE SOLDIERS”:  
FREEDMEN AND THEIR CITIZENSHIP AT THE FORT JACKSON MUTINY

On the night of 9 December 1863 a “most violent excitement” had enveloped Fort Jackson, ninety miles south of New Orleans. Major General Nathaniel P. Banks, commander of the Federal Department of the Gulf, reported to general-in-chief Major General Henry W. Halleck that hundreds of formerly enslaved black soldiers in the 4<sup>th</sup> Infantry Regiment (Corps d’Afrique) had mutinied about thirty minutes after their commander, Lieutenant Colonel Augustus W. Benedict, “struck and punished two soldiers with a whip.”<sup>1</sup> In his report, Banks condemned the “degrading punishment of flogging,” but could not countenance a “mutiny against official authority.” A “few months’ instruction” by the Army could not instill “all that is required of *citizens or soldiers*.” The former slaves’ dissent gave proof in his mind that they could not “become

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<sup>1</sup> Testimony of Captain William H. Knapp, commander of Company A and senior captain in the 4th Regiment, Corps d’Afrique, to a Military Commission, 13 December 1863 (hereafter Knapp testimony) after giving a similar full citation for the first instance of testimony by other witnesses, subsequent references will follow this pattern, e.g. “Drew testimony”), *The War of the Rebellion: The Official Records of the Union and Confederate Armies*, 128 vols. (Washington, D.C.: Government Printing Office, 1880–1901), ser. 1, vol. 26, pt. 1 (cited hereafter as *OR* and all citations refer to Series 1, Volume 26, Part 1 unless otherwise noted), 473. Major General Nathaniel P. Banks to Major General Henry W. Halleck, 11, 17 December 1863, *OR*, 456, 458.

perfect soldiers” because bondage had suffocated the necessary “civil or individual rights” necessary for military service by citizen-soldiers.<sup>2</sup>

This chapter turns Banks’s analysis on its head to argue that the soldiers at Fort Jackson mutinied precisely because they recognized that the Army’s regulations and the Articles of War provided them specific rights and protections due to their status as soldiers. These were the individual and corporate rights Northern citizens believed came from being members of a voluntary association. Freedmen-soldiers were a unique class of Union volunteers because they created a new standing as citizens via their soldier status and their enslaved past. Shaped by those origins, they gave specific form to their new found freedom by demanding the rights belonging to all citizen-soldiers in the service of the Union.

Freedmen-soldiers’ path to citizenship from slavery passed through an important way station at Fort Jackson. It was not only, or even primarily, forged in battle through a partnership with white officers. As Fort Jackson demonstrates, it grew out of emancipated slaves’ own efforts to weld their preexisting beliefs about customary rights of membership to the protection of the rule of law offered by their status as soldiers. The drama and significance of the mutiny of Fort Jackson is also not in the legal protections of due process afforded to many African American soldiers in the Army’s courts-martial.

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<sup>2</sup> Banks to Halleck, 11, 17 December 1863, emphasis added, *OR*, 456, 458. The military commission that investigated the mutiny blamed emancipated African American soldiers’ “ignorance of their rights and the proper means of redress.” The commission decided against interviewing any of the black enlisted men. All of this material and three letters exchanged between Generals Banks and Halleck comprise coverage of the mutiny in the *OR*. Proceedings of a military commission convened at Fort Jackson, 13 December 1863, *OR*, 475-79. A court-martial followed in late December, but only the charges and sentences have survived. See NN1301, Court-Martial Case Files, RG 153 Records of the Judge Advocate, National Archives (hereafter NA), Washington, D.C.

Rather it resides in the deliberate military protest actions that brought those trials about. It was on the parade ground where emancipated slave soldiers staked their first claim to a set of soldier rights which they themselves would see were enforced, something men like these had done even while enslaved through numerous confrontations for customary rights. In this way, the Fort Jackson mutiny is not only a benchmark for freedpeople's progress toward citizenship but it serves as a definitive means of linking the formerly enslaved's efforts at self-emancipation with the larger story of military Reconstruction during the Civil War. The Fort Jackson mutiny is an example of self-emancipation within the Union Army and of how newly free African Americans defined what freedom could mean.<sup>3</sup>

While this chapter contends that the Fort Jackson mutiny is a window onto freedpeople's citizenship formation, the soldiers' protest also grew out of circumstances specific to slavery in the lower Mississippi Valley. To that end labor practices in sugar cultivation and the leverage slaves' secured in relations with their masters' authority are analyzed. Slaves had formed one part of a fictive household with their master through which they won customary rights over time through confrontation. Although they had no standing body of legally defined rights in bondage, freedmen gained exactly that as members of the Army. The process began before they donned the uniform, however,

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<sup>3</sup> Christian Samito points out that blacks considered procedural due process in courts-martial and punishment a significant by-product of freedom, but I would like to put more weight on their bid for equal citizenship having its genesis with the military protest actions that landed them in court. See Christian Samito, *Becoming American Under Fire: Irish Americans, African Americans, and the Politics of Citizenship during the Civil War Era*, (Ithaca, NY: Cornell University Press, 2009), 83-90. African American collective dissent grew out of the reality of unequal treatment in their everyday military lives beyond the confines of military courts.

because freedpeople continued to labor in Federally-occupied Louisiana. While living under Federal military law instead of the master's whim they expected freedom to expand the conventions of reciprocity secured in the past. It structured the expectations for equal treatment that freedmen gained once they joined the Army. In light of these local contexts the mutiny reveals freedmen-volunteers' articulation of their soldier rights. Freedmen believed their status as soldiers should allow them more, not less, control over their lives than when in bondage. In this way attainment of the status of soldier served as an important benchmark on the path to citizenship for emancipated African Americans.

### ***The Mutiny at Fort Jackson***

After the Union Army occupied New Orleans and the lower sugar parishes in April 1862, the Gulf Department's first commander, Major General Benjamin F. Butler, raised three regiments of Native Guards from the city's free black population and the growing ranks of emancipated slaves seeking refuge within Union lines. Banks assumed command in December 1862 and purged the Native Guards of their black line officers.

Next he established the Corps d’Afrique and recruited enough emancipated blacks by the end of 1863 to fill nearly thirty regiments, including the 4<sup>th</sup> Infantry.<sup>4</sup>

Ridding the Native Guard of black officers set the stage for Banks to issue General Orders No. 40, mandating white officers for the Corps d’Afrique.<sup>5</sup> His vision of military service for the thousands of freedmen accorded with Northern racial attitudes. The freedmen were judged against a set of conflicting racial stereotypes that said blacks were violent yet childlike, shrewd yet simpleminded. After such attributes had been exacerbated by generational bondage their race stood unprepared, perhaps unfit, for citizenship. In the view of Anglos like Banks, segregation had so far prevented the moral degradation of Northern whites. The lines of racial authority needed to be enforced

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<sup>4</sup> “Crispus Attucks Celebration,” *The Liberator* (Boston, 20 March 1863); James G. Hollandsworth, Jr., *The Louisiana Native Guards: The Black Military Experience During the Civil War* (Baton Rouge: Louisiana State University Press, 1995), 2-7; Joseph T. Glatthaar, *Forged in Battle: The Civil War Alliance of Black Soldiers and White Officers* (New York: Free Press, 1990), 7-10. Banks considered the black officers “a source of constant embarrassment and annoyance” to Northerners’ racial sensibilities, Banks to Major General Lorenzo Thomas, Adjutant-General of the Army, 12 February 1863, *OR*, 46. There were ex-slaves from Mississippi and every other Confederate state as well. The muster rolls can be misleading if the soldier offered his birthplace rather than domicile, see my analysis of the Fort Jackson mutiny ringleaders below. The domestic slave trade had carried about a third of enslaved persons far away from the familiar people and places of their birth by 1860, Peter Kolchin, *American Slavery: 1619-1877*, rev. ed (New York: Hill and Wang, 2003), 96-98.

<sup>5</sup> General Orders No. 40, Department of the Gulf, 1 May 1863, *OR*, ser. 1, vol. 15, 716-17.

within the military as well. Only at the foot of their white liberators might the freedpeople patiently learn their new place in the Republic.<sup>6</sup>

Unfortunately, instead of sympathetic commanders like Alfred S. Hartwell of the 55<sup>th</sup> Massachusetts or Thomas W. Higginson in the 1<sup>st</sup> South Carolina Native Volunteers, the men of the Corps d’Afrique often saluted men who despised them or saw them as mere instruments of pecuniary gain.<sup>7</sup> Officer candidates came mostly from regiments occupying Federal Louisiana. One soldier wrote home that a regiment of New York zouaves routinely assaulted “the unlucky darkey that falls in their hands” whom they believed “will make very poor soldiers.”<sup>8</sup> Others wanted nothing to do with the freedmen, like the Connecticut soldier who would have rather been a lieutenant of white artillery than a captain in the Corps d’Afrique.<sup>9</sup> It was from this pool of men that General

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<sup>6</sup> Untitled Report, 1863, Folder 79, Military Papers, Nathaniel Prentiss Banks Papers, Manuscript Division, Library of Congress, Washington, D.C.; Keith P. Wilson, *Campfires of Freedom: The Camp Life of Black Soldiers During the Civil War* (Kent, Ohio: Kent State University Press, 2002), 21-24; George M. Fredrickson, *The Black Image in the White Mind: The Debate on Afro-American Character and Destiny, 1817-1914* (Middletown, Conn.: Wesleyan, 1987), 101-02, 168-70; Paul Gilmore, *The Genuine Article: Race, Mass Culture, and American Literary Manhood* (Durham: Duke University Press, 2001), 37-66; Chandra Manning, “Wartime Nationalism and Race: Comparing the Visions of Confederate, Black Union and White Union Soldiers” in William J. Cooper, Jr. and John M. McCardell, Jr., eds., *In the Cause of Liberty: How the Civil War Redefined American Ideals* (Baton Rouge: Louisiana State University Press, 2009), 98-103.

<sup>7</sup> “Prejudice Against Colored Soldiers,” *The Liberator* (Boston), 30 January 1863 and Hollandsworth, 43-45, relate a near mutiny by soldiers in the 13<sup>th</sup> Maine when a black captain from the 3<sup>rd</sup> Louisiana Native Guards tried to inspect their pickets. They stacked arms rather than obey. Banks used the incident to force these officers to resign rather than cause the Army further embarrassment. He did nothing with the Maine men. Noah Andre Trudeau, *Like Men of War: Black Troops in the Civil War, 1862-1865* (New York: Little, Brown, 1998), 26, 34; Glatthaar, *Forged in Battle*, 124-25, 176-77.

<sup>8</sup> Michael Guinan to Eliza Guinan, 22 February 1863, MSS 289 Michael Guinan Papers, Folder 7, Historical New Orleans Collection, Williams Research Center, New Orleans, Louisiana (hereafter HNOC).

<sup>9</sup> Charles F. Sherman to father, 30 April 1863, MSS 114 Charles F. Sherman Civil War Letters, HNOC.

Banks appointed Colonel Charles W. Drew commander of the 4<sup>th</sup> Infantry on 29 December 1862. Drew selected Augustus W. Benedict, a friend and fellow officer from the 75<sup>th</sup> New York, as his lieutenant colonel in January 1863.<sup>10</sup>

As the first regiment of the new Corps d’Afrique, the 4<sup>th</sup> Infantry officially came into being on 10 February 1863. It quickly assumed the fatigue and garrison duty, “both day and night, for weeks without intermission,” that would typify black military service across the South. In May 1863 they manned the siege lines around Port Hudson until its fall in July. A six-month tour of duty as the garrison of Fort St. Phillip opened on 7 August; occupation of neighboring Fort Jackson began at the start of December. Depressing physical conditions prevailed at these fortresses guarding the southeastern approaches to New Orleans from the Gulf of Mexico. Fort Jackson stood on swampland with a levee running to the wharf and the post hospital on the Mississippi River. It bisected pools of standing water around the walls that acted as moats as well as breeding grounds for “millions upon millions of mosquitoes.” Malarial infestation was compounded by a lack of fresh meat and vegetables despite constant demands to

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<sup>10</sup> Year: 1850, Census Place: Brooklyn Ward 3, Kings, New York, Roll: M432\_517, Page: 204A, Image: 415, 1850 United States Federal Census [database on-line]; Historical Data Systems, comp., *U.S. Civil War Soldier Records and Profiles* both at Ancestry.com [database on-line] accessed 9.9.11, Provo, UT, USA; Colonel Charles W. Drew, 4th Infantry, Corps d’Afrique to Charles C. Dwight, 10 March 1864, Port Hudson, LA, folder 29, Box 2, Series I, MSS 4696, Gail and Stephen Rudin Collection of Civil War Letters, Division of Rare and Manuscript Collections, Cornell University Library, Ithaca, NY; Lieutenant Colonel Augustus W. Benedict, 4th Infantry, Corps d’Afrique, Compiled Military Service Record, RG 94 Office of the Adjutant General, NA; Headquarters (hereafter CMSR). 4th Infantry, Corps d’Afrique to Lieutenant Colonel Richard Irwin, Assistant Adjutant General, Department of the Gulf, 5 January 1863, Box 45, 76th United States Colored Infantry (hereafter USCI), Letters Sent, Feb. 7, 1863–Jun. 16, 1866, Loose Regimental Papers, 75-78th USCI, U. S. Colored Troops, RG 94 Office of the Adjutant General, NA. This box of several hundred unbound regimental papers contains material outside of the stated dates of coverage. Benedict’s promotion came alongside the promotions of three other officers and the regimental sergeant major to higher commissions within the 4th Infantry.



headquarters. Only three months before the mutiny nearly 20 percent of the enlisted personnel were on sick report and in November a medical inspector reported deaths from sickness and malnutrition at worrisome levels. Both forts, bombarded during the Federal assault on New Orleans, remained in dilapidated condition due to insufficient building materials. Officers and men had to erect tents on the parade ground or outside the walls beside the tumbledown permanent quarters. Yet the freedmen took great pride in their status as soldiers despite stultifying service according to general officers acquainted with the Corps d’Afrique. Banks claimed they had won “the commendation of all officers and citizens” throughout the fall of 1863.<sup>11</sup>

Even as soldiers were lost to sickness and death, new additions from the population of emancipated slaves working as wage laborers on sugar plantations allowed the 4<sup>th</sup> Infantry to hover at close to 1000 men starting in the middle of August.<sup>12</sup> Banks intended a full slate of officers to command each Corps d’Afrique regiment even though their establishment strength was 500 men—half the size of a fully-enrolled regiment. Only

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<sup>11</sup> The quote about typical black military service comes from “A Soldier of the 55<sup>th</sup> Massachusetts Volunteers” to the *Weekly Anglo-African* (New York), 12 January 1864 in Noah Andre Trudeau, ed., *Voices of the 55<sup>th</sup>: Letters from the 55<sup>th</sup> Massachusetts Volunteers, 1861-1865* (Dayton, OH: Morningside, 1996); Frederick Dyer, “4<sup>th</sup> Louisiana Native Guard,” *Compendium of the War of the Rebellion* (Des Moines, IA: Dyer Publishing Co., 1908), 1214. Banks wrote approvingly of the 4<sup>th</sup> Infantry to Halleck, 17 December 1863, *OR*, 457-8. On the surroundings of the forts, see testimony of Major William E. Nye to a Military Commission, 12 December 1863, *OR*, 464 and Leonard G. Phenix, “Letter from Louisiana,” *The Christian Recorder* (Philadelphia), 25 March 1865. Phenix was a black sergeant in the 11<sup>th</sup> U.S. Colored Heavy Artillery stationed at Fort Jackson beginning in February 1865. Statement on the health of the soldiers comes from Captain William Liheffler, Commissary of Musters, who submitted muster rolls to department headquarters on 5 November 1863 for 14 new recruits to the 4<sup>th</sup> Infantry, 76<sup>th</sup> USCI Regimental Papers and Assistant Surgeon John Heon to Surgeon Richard H. Alexander, Medical Director, Department of the Gulf, 21 November 1863, 76<sup>th</sup> USCI Regimental Papers. The state of the forts themselves is described by Brigadier General William Dwight, commanding post of Forts Jackson and St. Philip to Brigadier General C. P. Stone, chief of staff, Department of the Gulf, 4 January 1864, Fort Jackson Letters Sent and by Phenix, “Letter from Louisiana.”

<sup>12</sup> Assistant Adjutant-General R. Irwin to Banks, 15 August 1863, *OR*, 684.

after sufficient drill and discipline had raised the men's "soldierly qualifications" did he plan to combine them into regiments of a standard size. Critics of his plan included abolitionist-turned-soldier Thomas W. Higginson, one of the first commanders of formerly enslaved soldiers in South Carolina, who saw it as "calculated to destroy all self-respect in the soldiers" simply to satiate "the hordes of aspirants for commissions."<sup>13</sup> Typical was a man from Dexter, Maine, who accepted a regimental surgeon's appointment in the Corps d'Afrique for the increase in pay, a chance to practice his profession, and a reprieve from officers he disliked.<sup>14</sup>

In the minds of General Banks and most of his subordinates, whites possessed the privilege of command because they were citizens and freedmen were not. Many agreed with his view that the freedmen's "limited capacity, instruction, and self-possession" made them barely capable of being soldiers, much less officers.<sup>15</sup> At the same time, most officers in the Corps could only countenance blacks as members of the same Army if they were military and racial subordinates.<sup>16</sup> These attitudes and structures created a situation whereby emancipated slaves in uniform had to first accept the racial power

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<sup>13</sup> Banks to Halleck, 17 December 1863, *OR*, 457-9. Banks's inspiration for limiting regimental size may have been Major General David Hunter's experiment on the South Carolina Sea Islands that created a 500-man regiment of contrabands in May 1862, Willie Lee Rose, *Rehearsal for Reconstruction: The Port Royal Experiment* (New York: Oxford University Press, 1964), 147. Thomas W. Higginson, "General Saxton and the Colored Soldiers," *The Liberator* (Boston), 16 September 1864. The piece is an extract from Higginson's controversial article, "Regular and Volunteer Officers," *Atlantic Monthly*, September 1864; also see "Department of the Gulf," *New York Times*, 16 September 1863. William F. Messner, "The Federal Army and Blacks in the Gulf Department, 1862-1865" (PhD diss., University of Wisconsin, 1972), 294-297, implies Banks held down roster sizes to create a corps of officers beholden to him for their commissions. Alternatively, Glatthaar, *Forged in Battle*, 106, considers Banks sincere in his desire for the best-trained regiments possible.

<sup>14</sup> Surgeon's Letter, 22 August 1863, MSS 260 Black Soldiers Collection, Box 1, Folder 5, HNOG.

<sup>15</sup> Banks to Halleck, 17 December 1863, *OR*, 457.

<sup>16</sup> Gary W. Gallagher, *The Union War* (Cambridge: Harvard University Press, 2011), 77.

structure before gaining practical recognition of their soldier rights under military law. When black troops refused to acquiesce, their commanders claimed a wide license to punish intransigence in order to restore military and racial order.

This is certainly the case that obtained in the 4<sup>th</sup> Infantry, but it extended to other regiments of U.S. Colored Troops as will be shown in the following chapter. For the freedmen-soldiers in the 4<sup>th</sup> Infantry the regime of abuse began well before the 9 December mutiny. Both Drew and Benedict (and certainly some line officers as well) practiced demeaning forms of punishment for minor infractions of dress, deportment, and camp discipline. This was treatment despised by Anglo soldiers reared in the tradition of antebellum soldier rights. Even General Banks admitted after the mutiny that it ran “contrary to the orders constantly given in this department.”<sup>17</sup> Nevertheless, between August and November 1863 Colonel Drew kicked or punched numerous soldiers during inspections and allegedly flogged Sergeant Samson Matthews in front of his men.<sup>18</sup>

By all accounts Benedict was even worse and the treatment he meted out to the two musicians on 9 December was merely of a piece. By that date he had already smashed in

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<sup>17</sup> Banks to Halleck, 17 December 1863, *OR*, 457, 459.

<sup>18</sup> Testimony of Second Lieutenant Edward D. Mooney, Company A, 4th Regiment, Corps d’Afrique to a Military Commission, 13 December 1863, *OR*, 471; Nye testimony, 12 December 1863, *OR*, 466; General Dwight enclosed charges against Drew in a letter to department headquarters as the court-martial concluded. He contended Drew beat an enlisted soldier with his own musket, slapped Private Charles Batese while on duty; threw a brick at Private Jefferson Gascon’s face, and even after the mutiny, tied a soldier for refusing an order, Dwight to Stone, 28 December 1863, Fort Jackson Letters Sent; Charges against Drew, n.d., Drew CMSR; Drew to Colonel Charles Dwight, 10 March 1864, Cornell Library Special Collections; testimony of Captain James Miller, commanding Company D, 4th Regiment, Corps d’Afrique and officer of the day on 9 December, to a Military Commission, 12 December 1863, *OR*, 468; Knapp testimony, 13 December 1863, *OR*, 473.

a soldier's face with the flat of his sword and when soldiers' "brasses were not bright or their boots not polished" he would routinely "strike men in the face with his fist and kick them." These punishments had created such "ill-feeling" among the soldiers that officers testified men came to them on several occasions to complain.<sup>19</sup> While in temporary command at Baton Rouge in August 1863 he staked down a pair of soldiers stripped of their shoes and socks for two consecutive days. Louisiana slaves had endured similar barbarity, like the woman whose legs were broken after being staked to the ground or a group of slaves stripped to the waist and attacked by cats.<sup>20</sup> These emancipated slave soldiers had their faces, hands, and feet smeared with molasses by officers obeying Benedict's direct orders.<sup>21</sup> Attacked by insects and nearly suffering heat stroke as they struggled to perspire, the men remained captive until sundown each day. According to officers' later testimony, Drew and Benedict perpetrated these kinds of abuse "several times" while the 4<sup>th</sup> Infantry garrisoned the river forts.<sup>22</sup> One reason officers likely

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<sup>19</sup> Miller testimony, 12 December 1863, *OR*, 467; testimony of Colonel Charles A. Hartwell, 5<sup>th</sup> Regiment, Corps d'Afrique and commander of the garrison at Fort St. Philip, to a Military Commission, 13 December 1863, *OR*, 472; Mooney testimony, 13 December 1863, *OR*, 471. Quartermaster Sergeant George McFaul simply called Benedict's style "rough" in his testimony to a Military Commission, 13 December 1863, *OR*, 470. Only Lieutenant George H. Kimball claimed he never *personally* saw Benedict mistreat "any troops and had no soldiers complain" to him, Kimball, regimental adjutant, detailed as post adjutant at Forts Jackson and St. Philip, to a Military Commission, 13 December 1863, *OR*, 469-470.

<sup>20</sup> Richard Follett, *The Sugar Masters: Planters and Slaves in Louisiana's Cane World, 1820-1860* (Baton Rouge: Louisiana State University Press, 2005), 143.

<sup>21</sup> Mooney testimony, 13 December 1863, *OR*, 471; Miller testimony, 12 December 1863, *OR*, 468.

<sup>22</sup> Testimony of Lieutenant Colonel Augustus W. Benedict, commanding 4<sup>th</sup> Regiment, Corps d'Afrique to a Military Commission, 13 December 1863, *OR*, 474; Mooney testimony, 13 December 1863, *OR*, 471. Mooney noted Benedict used this same punishment again at Fort St. Philip on 25 August. For the link between theft and running away, see Blassingame, *Slave Community*, 200; for the remunerative role of molasses in Louisiana slave culture, see Follett, *Sugar Masters*, 159-62 and Joe Gray Taylor, *Negro Slavery in Louisiana* (Baton Rouge: The Louisiana Historical Association, 1963), 77, 108. Miller testimony, 12 December 1863, *OR*, 467.

remembered these details of cruel punishment so precisely was because they clashed so violently with the spirit and practice of antebellum volunteer companies.

The evening of the mutiny, 9 December 1863, closed with strong winds gusting in off the Gulf of Mexico. They added to an atmosphere of reckoning brought on by two events during the previous 48 hours. First was the announcement from Gulf Headquarters on 8 December that the garrisons of the two forts would each be redesignated as a separate regiment in the Corps d'Afrique. Personnel would be distributed to make each close to the 500-man establishment strength. Colonel Drew remained at Fort Jackson and became commandant of the post embracing both fortresses. While the garrison at Fort St. Philip became the 5<sup>th</sup> Infantry, Fort Jackson's remained the 4<sup>th</sup> Infantry henceforth under the permanent command of Lieutenant Colonel Benedict.<sup>23</sup> When troops at both forts got the news, many petitioned their officers to avoid service at Fort Jackson.<sup>24</sup>

Second was the bold demonstration in the late afternoon of 9 December by soldiers who lodged complaints about the Army's pay policy. Although no exact details survive, it likely conformed to a similar confrontation in October when two sergeants led their

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<sup>23</sup> Dyer, "4<sup>th</sup> Regiment, Native Guard Infantry," 1164, and "4<sup>th</sup> Regiment Infantry, Corps d'Afrique," 1719, *Compendium*; Drew testimony, 12 December 1863, *OR*, 460-61; Returns of Officers Present at Forts Jackson and St. Phillip, August and October 1863 and Post Return of the Garrison at Forts Jackson and St. Phillip, September November, December 1863 and January 1864, both in "Returns from U.S. Military Posts, 1800-1916," National Archives Microfilm Publication M617, RG 94 Records of the Adjutant General's Office, National Archives, Washington, D.C. (hereafter Returns from U.S. Military Posts). In November, Fort St. Philip had a garrison present for duty of 388 enlisted and non-commissioned officers, 26 sick, and five in confinement (419 total). At Fort Jackson there were 383 present, 31 sick, and nine in confinement (424 total). In the past month five soldiers had been lost through desertion. The garrison at Fort St. Philip also included one company from the 1<sup>st</sup> Regiment Artillery, Corps d'Afrique.

<sup>24</sup> Captain Knapp testified men complained to him personally, 13 December 1863, *OR*, 473. Other officers said they knew of such complaints and petitions, Hartwell and Mooney testimony, 13 December 1863, *OR*, 471-72.

company to Drew's quarters and expressed their frustrations. This incident took place a month prior to William Walker's November 1863 mutiny in South Carolina over the same grievance. In both cases freedmen-soldiers condemned the rate of seven dollars, conscious of their membership in the same Army that paid white troops thirteen dollars. Drew arrested the two non-commissioned officers, but released them after the men expressed regret and gave their word it would not happen again. The October petitioners had expressed weariness at his urgings to be patient until Congress issued redress. On 9 December the miserable living conditions, stultifying duty, barbaric discipline, and sudden changes prompted them to speak out again in spite of their promise. These new appeals came only four days after Secretary of War Edwin Stanton's had issued his own request that Congress pass amendments to the Militia and Second Confiscation Acts to address the pay issue. Expecting African American troops to accept lower pay than white soldiers smacked of "inequality and injustice." Using a language of associational membership that articulated their inchoate sense of soldier rights, Stanton declared that blacks were "entitled" to the nation's "justice and beneficence" as "soldiers of the Union."<sup>25</sup>

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<sup>25</sup> The October incident only survives as a recollection in Drew's testimony. He claimed to have assured the men, as he "had instructed the company officers to do before" him, that "the amount of their pay was not definitely settled, and would not be until Congress convened." When asked if anything else might have caused the mutiny, Drew only cited "their pay" in his testimony, "which they spoke of on the evening of the disturbance." Given that he claimed it "aggravated the matter [the mutiny]" but did not "immediately" produce it, it seems fair to conclude that he referred to two separate incidents on 9 December. Drew testimony, 12 December 1863, *OR*, 461, 463. Black soldiers also received less than freedmen assigned as assistant company cooks in white regiments (\$10) and some plantation laborers (\$8), Trudeau, ed., *Voices of the 55<sup>th</sup>*, 44; Glatthaar, *Forged in Battle*, 169; Wilson, *Campfires of Freedom*, 44. Black civilians hired as teamsters "at such salaries as are justified by the locality and the prevailing prices" could be paid even more, August V. Kautz, *Customs of Service for Non-Commissioned Officers and Soldiers as Derived From Law and Regulations and Practiced in the Army of the United States* (Philadelphia: J. B. Lippincott & Co., 1864), 19, 39. Edwin M. Stanton, "Annual Report of the Secretary of War," Volume 10, Part 1,

Given the frustration and anxiety that gripped the post, Benedict's decision to drag two "bad boys," musicians Munroe Miller and Harry Williams, onto the parade ground at about five-thirty in the evening is stunningly myopic.<sup>26</sup> Officers later speculated that the two musicians had earlier appeared at parade with their jackets unbuttoned although Benedict claimed they had been trying to leave the fort using fabricated orders to begin picket duty.<sup>27</sup> Despite having been in command for less than twenty-four hours, Benedict's answer to their infractions fit his pattern of discipline. He stripped the musicians of their uniform jackets and grasped a whip with a sturdy stock capped by a single, substantial tail of weathered leather like those used by Union Army teamsters to drive their draft horses. A knot of soldiers—divided about how to help their comrades—gathered at the fort's entrance to witness the spectacle. Benedict damned the two men as troublemakers who deserved punishment. At this prospect one of the men begged,

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December 5, 1863, in *Message of the President of the United States, and Accompanying Documents, to the Two Houses of Congress, at the Commencement of the First Session of the Thirty-Eighth Congress* (Washington, D.C.: Government Printing Office, 1863), 8.

<sup>26</sup> "Those boys were bad boys, and I treated them as such," Benedict testimony, *OR*, 474; Miller was twenty-five to twenty-seven years old and Williams was between eighteen and twenty-one, Munroe Miller and Harry Williams, *CMSR*.

<sup>27</sup> Hartwell testimony, *OR*, 472; Drew testimony, *OR*, 460; Nye testimony, *OR*, 465; Benedict testimony, *OR*, 474. The falling light also led to disagreement if both were whipped or which one. Most of the officers were in their quarters, Miller, testimony, *OR*, 468. Benedict testimony, *OR*, 474. Desertion had been minimal thus far, Garrison Returns for Forts Jackson and St. Philip, November and December 1863, Returns from U.S. Military Posts.

“‘Don’t! I won’t do it again!’” Benedict made no idle threat and landed four to five “severe” blows on each man’s back.<sup>28</sup>

The soldiers looking on heeded Benedict’s orders and “quietly” returned to their quarters after helping Miller and Williams off the parade ground. As in the mutinies by Anglos and Northern free blacks, the company streets quickly became conduits for information, avenues for decision making, and aids to planning. From tent to tent, the freedmen spoke of nothing but the whipping for half an hour. Many hoped intimidation might force Benedict to leave. A few intended to kill him.<sup>29</sup> To the recently emancipated soldiers the the grotesque whipping must have mimicked those handed out by overseers who exploited meek or slight individuals through a public form of domination and humiliation designed to intimidate all chattels into subservience. The broad determination to confront Benedict that emerged among them grew out of older convictions that displayed at times by enslaved persons determined to resist the lash, even to the extent of assisting a fellow who they felt was not deserving of such punishment.<sup>30</sup>

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<sup>28</sup> Only Major William E. Nye reported Benedict “did not strike very severely,” but it roused Nye from his quarters to spectate, Nye testimony, *OR*, 464-66. Drew claimed in his testimony he wanted “to go and correct Benedict” then and there, but “decided to not rebuke him in front of the men, but to wait for private,” Drew testimony, *OR*, 460-61. Officers reported as few as two lashes to as many as twenty, Kimball testimony, *OR*, 469; McFaul testimony, *OR*, 470; Miller testimony, *OR*, 467. Kimball and McFaul said Benedict used “a wagon whip” or “an artillery driver’s whip;” John D. Winters, *The Civil War in Louisiana* (Baton Rouge: Louisiana State University Press, 1963), 313.

<sup>29</sup> According to one officer the soldiers went to their tents and “plotted among themselves for a general insurrection,” Miller testimony, *OR*, 467; Major Nye’s black servant told him “the boys were going to shoot Lieutenant Colonel Benedict for whipping Harry [Williams],” Nye testimony, *OR*, 465; Drew testimony, *OR*, 460; Banks to Halleck, 11 December 1863, *OR*, 456.

<sup>30</sup> “All available sources refer to them, and every district, if not every large plantation, had one or two.” Eugene D. Genovese, *Roll, Jordan, Roll: The World the Slaves Made* (New York: Random House, 1974), 307, 619-20.



Benedict might have sensed these feelings when he grabbed his sidearm out of his quarters and returned to the parade ground. As the men gathered outside their tents in the darkness some of the soldiers were at a loss for what was taking place saying, ““I don’t know; I don’t know what the trouble is”” when asked to explain the actions of their comrades.<sup>31</sup> Lieutenant George H. Kimball insisted, ““There is a disturbance among the men” and “they are taking their arms,”” and Drew and his subordinates finally rushed onto the parade ground. By six o’clock the winter darkness provided a measure of anonymity for the roughly 250 men—half the regiment—who gathered on the parade ground. Over the next 30 minutes they “commenced shouting and firing” into the air “indiscriminately” without harming “persons or property.”<sup>32</sup>

The words of the mutineers shouted over the din of rifle fire occasionally lighting up the dark parade ground are filtered through the testimony of their white officers to the military commission held days afterwards. In the confusion officers could only identify thirteen soldiers as ringleaders. Most often they related the speech of collections of anonymous soldiers. The mutineers’ collective voice repeatedly stated a fundamental demand: ““We want to be treated as soldiers!””<sup>33</sup>

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<sup>31</sup> Nye testimony, *OR*, 464-66. It is also possible soldiers were dissembling, a well rehearsed tactic from slavery that “retained considerable utility in freedom as well,” Lawrence W. Levine, *Black Culture and Black Consciousness: Afro-American Folk Thought from Slavery to Freedom* (Oxford: Oxford University Press, 2007), 142; see also Bertram Wyatt-Brown, “The Mask of Obedience: Male Slave Psychology in the Old South,” *American Historical Review* 93 (December 1988): 1228–52.

<sup>32</sup> Drew testimony, *OR*, 460; Banks to Halleck, 11 December 1863, *OR*, 456. The officers disagreed how many soldiers participated in the mutiny; judging from half to one-quarter, to just one-fifth, of the regiment. While Benedict wanted to believe eighty percent were “disposed to do right,” he also doubted they “could have been relied upon in putting down the others,” Drew, et al. testimony, *OR*, 460-74; “Department of the Gulf—The Mutiny in Fort Jackson,” *New York Times*, 6 January 1864.

<sup>33</sup> Miller testimony, *OR*, 467.

The mutineers at Fort Jackson understood themselves as new members of an institution offering a unique status and unfamiliar but specific rights and protections. The soldiers “fell in” on the parade ground, according to officers’ testimony. Its precise martial meaning of “to get into line, to take one’s place in the ranks, to parade” suggests the men formed into files with order and discipline. Furthermore, Colonel Drew witnessed them “in the act of loading” their rifles. Each of these seemingly insignificant details are pregnant with meaning. The freedmen employed the training and discipline which marked them as soldiers in order to defend their new status and its concomitant rights.<sup>34</sup>

Their act of collective dissent was in fact strengthened by bearing arms like white citizen-soldiers. It would have been during musket drill that they would have practiced the specific, complicated steps to load their rifle-muskets observed by Colonel Drew. Rather than a routine of enslaved life, it had been learned as a soldier’s skill and practiced in the context of company drill. Maneuvers on the drill field were done in formation after soldiers “fell in” to their proper place in the ranks. According to one scholar of Civil War tactics, in formation “the closeness that each soldier felt to his comrades on either side gave him strength” during the moral and physical test of battle. Arranging themselves with the discipline of the battle-line also functioned as a potent symbol of the freedmen’s soldier status just as it viscerally connected Anglos with their status as soldiers protecting the Union and their civic liberties. This “psychology of the

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<sup>34</sup> While Harrington and Messner seem persuaded by Major Nye’s belief that the men presented “a good deal of confusion and noise,” Nye’s testimony, OR, 464, has problems because he was unaccounted for during most of the mutiny and several officers suspected him derelict of duty. *Oxford English Dictionary*, 2nd ed., s.v. “fall.” Drew testimony, OR, 461.

battle line” stiffened the resolve of the mutineers on 9 December.<sup>35</sup> In the mutiny at Fort Jackson the soldiers of the 4<sup>th</sup> Infantry wrapped their claim to customary rights in the martial discipline of the parade ground.

The habits and customs of soldiering even appeared in the enslaved’s antebellum insurrections. Revolts such as Gabriel’s in Virginia in 1800, Charles Deslondes’ 1811 rising in Louisiana, Denmark Vessey’s 1822 South Carolina plot, and Nat Turner’s violent 1831 rebellion in Virginia all had the “settled purpose of and actual destruction of the lives and property of local whites.”<sup>36</sup> Deslondes, for instance, initially led 400 slaves to burn sugar plantations in January 1811 and killed two whites. His forces marched to drum cadence as they accrued additional runaways and deployed in regiments 500 strong on their way to New Orleans before American troops attacked and killed 66 of them.<sup>37</sup> The maroon communities—slaves living at large beyond white

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<sup>35</sup> Earl J. Hess, *The Union Soldier in Battle: Enduring the Ordeal of Combat* (Lawrence: University Press of Kansas, 1997), 55-57, 110-17, 126. See also Paddy Griffith, *Battle Tactics of the Civil War* (New Haven, CT: Yale University Press, 1989), 91-116; Brent Nosworthy, *The Bloody Crucible of Courage: Fighting Methods and Combat Experience of the Civil War* (New York: Carrol & Graf, 2003), 30-33.

<sup>36</sup> John W. Blassingame, *The Slave Community: Plantation Life in the Antebellum South* (New York: Oxford University Press, 1979), 215; Herbert Aptheker, “American Negro Slave Revolts,” *Science and Society* Vol. 1 (Summer, 1937): 512-38 (526). The Stono Revolt in South Carolina in 1714 also included slaves marching in formation to drums under flags and presumably some kind of tactical direction. These enslaved persons were in large part recently arrived Kongolese rather than strictly speaking African Americans who formed the bulk of black Union soldiers, Mark M. Smith, “Remembering Mary, Shaping Revolt: Reconsidering the Stono Rebellion” *Journal of Southern History* 67, no. 3 (August 2001), 513-534 (518).

<sup>37</sup> Although Deslondes was a free black I include the Louisiana episode because “the creation of a free colored population [in St. Domingue] resulted mainly, as in Louisiana, from the manumission of mulatto slave children,” 412, and the 1811 revolt was in part an attempt to forge racial solidarity in the face of the new American regime’s attempt to demote the status of Louisiana’s free blacks, 420-24, Laura Foner, “The Free People of Color in Louisiana and St. Domingue: a Comparative Portrait of Two Three-Caste Slave Societies,” *Journal of Social History* 3, no. 4 (July 1970): 406-430; Blassingame, *Slave Community*, 216-7; Aptheker, “Slave Revolts,” 523; Harvey Wish reports they employed “disciplined companies,” “American Slave Insurrections Before 1861,” *Journal of Negro History* 22, no. 3 (July 1937): 299-320 (319).

settlement—were a permanent feature of antebellum slavery and comprised another dramatic form of resistance to the institution that sometimes took military forms. Hoping for emancipation, they had fought with the British during the Revolution and maroon communities had frequently appeared along the boundaries of Spanish Florida. During the United States's struggle to "pacify" the Seminole after Florida's annexation in 1819, a white American officer observed that for the maroons who had sought refuge with the tribe, "surrender would be servitude to the whites; but to retain an open warfare, secured to them plunder, liberty, and importance."<sup>38</sup>

The dissenters also took possession of spaces that represented the unjust authority they now challenged. At least three non-commissioned officers joined the action as well as members of the guard detail. A squad of mutineers appeared at the guard house and released the soldiers confined within. Others went outside the walls, joined with comrades from some of the companies quartered there, and staked claim to the wharf. They searched for Benedict along the riverbank near the steamer *Suffolk*. Others briefly occupied the post hospital.<sup>39</sup>

The mutineers' disciplined presence and rapid commandeering of the environs of Fort Jackson convinced the officers that quelling the mutiny with "any force" would have been "very injudicious." They refrained from drawing any personal weapons and

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<sup>38</sup> Kolchin, *American Slavery*, 158; Blassingame, *Slave Community*, 212, 210-22; Aptheker, "Slave Revolts," 525, 535; Aptheker, "Maroons Within the Present Limits of the United States," *Journal of Negro History* Vol. 24 (1939): 167-84 (171-73); Charles P. Roland, *Louisiana Sugar Plantations during the Civil War* with new forward by John David Smith (Baton Rouge: Louisiana State University Press, 1997, 1st ed., 1957), 92-3.

<sup>39</sup> Miller testimony, *OR*, 467-69; Drew testimony, *OR*, 462. As discussed above, disassembling was a well rehearsed tactic from slavery that "retained considerable utility in freedom as well," Levine, *Black Culture and Black Consciousness*, 142; see also Wyatt-Brown, "Mask of Disobedience," 1228-52.

instead gathered the loyal black non-commissioned officers as interlocutors. With them the officers dispensed “advice;” urging the mutineers to put down their weapons and go back to their quarters.<sup>40</sup>

Tensions ran high despite the self-discipline of the battle line. Fearing their officers might turn the fort’s cannons upon them, some mutineers made threats they hoped would compel Benedict’s release to them. Soldiers rushed at Major Nye, “shouting as they went, ‘Kill him, shoot him; kill the son of a bitch,’” before continuing down the levee to the hospital. Captain Miller had men urge him to, “‘Go away; we didn’t wish to hurt you, but if you don’t go away we will kill you.’” Other men simply warned they would, “‘Kill all the damned Yankees.’” In only two reported cases, however, did soldiers perpetrate acts of violence. One man grabbed Major Nye by his uniform jacket, threw him to the ground, and threatened to bayonet him. Captain Miller reported that Private Frank Williams yelled, “‘God damn you! I have been looking for you all night’” before he “made two thrusts at me with his bayonet, striking me on the belt-plate.”<sup>41</sup>

Colonel Drew and his officers’ distilled the mutiny’s cause to Colonel Benedict’s punishment of the two musicians when they recalled men shouting, “‘We did not come here to be whipped by him. Kill Colonel Benedict; shoot him.’” Undoubtedly the

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<sup>40</sup> The shock generated by the mutiny along with the time of day led to confusion about who was present and how they were armed, but probably most of the whites assisted Colonel Drew and did so without their sidearms; Drew, et al. testimony, *OR*, 460-74. Black non-commissioned officers occupied a unique position. In decisions about collective dissent, they could act as loyal supporters for their officers or vociferous critics of unjust treatment, Wilson, 35-36, 51-52; Samito, *Becoming American*, 62; Glatthaar, *Forged in Battle*, 169-73.

<sup>41</sup> Nye testimony, *OR*, 464-65; Miller testimony, *OR*, 467-8; Drew testimony, *OR*, 460-1, 464; Hartwell testimony, *OR*, 472; only in “Department of the Gulf—The Mutiny in Fort Jackson,” *New York Times*, 6 January 1864, is it reported that some men might have burned Benedict’s tent.

flogging did function as the primary complaint for those mutineers who promised ““We will not stop firing until we have him.””<sup>42</sup> Colonel Drew and his fellow officers believed the mutiny was “spur of the moment” although the issue of unequal pay had “aggravated” its intensity.<sup>43</sup>

Benedict’s punishment resonated most deeply with the freedmen-soldiers as a reminder of the life they thought lay behind them. Not only did slaves fear whipping’s physical pain, but it tore asunder any of the carefully arranged “threads of kinship and custom” which could “redefine the master-slave relation” within the common household.<sup>44</sup> All of these feelings rushed to the surface and combined with a new reality. No longer were customary rights being violated, but legal protections conferred on them through their status as soldiers. It flouted General Thomas’s personal interdiction against flogging, transgressed a Federal statute, and violated military law governing absence without leave. Unauthorized absence had to be tried by general court-martial and, if

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<sup>42</sup> Drew testimony, *OR*, 460-1; Nye testimony, *OR*, 465; Kimball testimony, *OR*, 469.

<sup>43</sup> Drew testimony, 12 December 1863, *OR*, 461. A representative view for the officers is Maj. William E. Nye to a Military Commission, 12 December 1863, *OR*, 466. These freed slaves would have also been adept at disguising their intentions. With varying degrees of success the enslaved hid preparations for a number of uprisings. See Winthrop D. Jordan, *Tumult and Silence at Second Creek: An Inquiry into a Civil War Slave Conspiracy* (Baton Rouge: Louisiana State University Press, 1993); Herbert Aptheker, *American Negro Slave Revolts*; Joe Gray Taylor, *Negro Slavery in Louisiana* (Baton Rouge: Louisiana Historical Association, 1963).

<sup>44</sup> Steven Hahn, *A Nation under Our Feet: Black Political Struggles in the Rural South from Slavery to the Great Migration* (Cambridge: Harvard University Press, 2003), 32-33.

convicted, most soldiers could expect a short stint in the guard house along with a fine, but not physical punishment.<sup>45</sup>

Alongside these statements focused narrowly on Benedict's actions are others that tie the mutiny to the freedmen's understandings of their soldier rights. "'We know what General Grant told us,'" they repeatedly said. Most students of the Fort Jackson mutiny have accepted the white officer's interpretation of this slogan: that the men meant the speech of General Thomas discussed above. It is also worth considering that perhaps the soldiers meant what they said. General Grant's 22 June 1863 communique to Confederate General Richard Taylor demanding proper treatment of black soldiers captured after the Battle of Milliken's Bend, Louisiana, promised "The Government and all officers serving under the Government are bound to give the same protection" to black soldiers "that they do to any other troops." Grant transmitted a copy of the communique to General Thomas as well.<sup>46</sup> Thomas may very well have read it to the troops at Fort Jackson or incorporated some reference to it. The black citizen-soldiers would have recast it for themselves as additional evidence the government had promised equal treatment. It justified rising against a local system of command that had failed to

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<sup>45</sup> Stephen J. Ramold, *Baring the Iron Hand: Discipline in the Union Army* (De Kalb: Northern Illinois University Press, 2010), 222-25; Forty-first and Fiftieth Articles of War, *Revised United States Army Regulations*, 492-93. Even with soldiers' and laborers' need for passes, emancipated slaves also recognized their freedom from the slave patrol's arbitrary violence—a tangible benefit of emancipation, Roland, 95.

<sup>46</sup> Miller testimony, *OR*, 467-8; Fred Harvey Harrington, "The Fort Jackson Mutiny," *Journal of Negro History* 27, no. 4 (October 1942): 420-31.; Major General Ulysses S. Grant to Confederate Brigadier General R. Taylor, 22 June 1863, *OR*, I, XXIV, III, 425-26. Milliken's Bend was a bit over 300 miles up the Mississippi River from Fort Jackson. The troops may have learned of it word-of-mouth through the human information highway along the river. On slave communication networks see Stephen V. Ash, *The Black Experience in the Civil War South* (Santa Barbara, CA: Praeger, 2010), 64; Jordan, *Tumult and Silence*, 2-3.

protect the rights outlined in military law. The Army offered the chance to overturn old patterns, but it took moments like the Fort Jackson mutiny for citizen-soldiers to effect the transformation.

Colonel Drew initially warned “they would get themselves into trouble,” but as the mutiny intensified he conceded that Benedict “had done wrong.” Still, by mutiny “the men had done greater wrong” and they must accept he “was the proper person to settle the difficulty.” From this tentative compromise, Drew and his officers patiently assured familiar individuals that each would be “protected in his rights.” Only then did the mutiny begin its denouement.<sup>47</sup> The mutineers’ display of military discipline facilitated assembling the regiment in “a hollow square” around Drew who reiterated that Lieutenant Colonel Benedict “had done wrong, and that he would see justice done.” Most soldiers, satisfied they had made their point, now “acted very peaceably” and returned to their tents. By the 8 o’clock tattoo “everything was quiet, and nearly all the men answered to their names at roll-call.”<sup>48</sup>

Emancipated African American soldiers had forced a powerful white to at least acknowledge some portion of their definition of freedom. Unlike Drew’s demand that the pay complainants be patient, the mutineers had forced him to explicitly concede that as soldiers they possessed certain individual and corporate rights. Furthermore, these were not simply the customary rights they had traditionally wrangled from their masters. These rights under the Articles of War had a political-legal status endowed by Congress.

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<sup>47</sup> Miller testimony, *OR*, 467; Benedict testimony, *OR*, 474; Drew testimony, *OR*, 461-2.

<sup>48</sup> Miller testimony, *OR*, 467; Drew testimony, *OR*, 460-61; Major Nye observed that even after the mutiny the men “obey the orders given to them,” Nye testimony, *OR*, 465-66; Kimball testimony, *OR*, 469; Knapp testimony, *OR*, 473; Banks to Halleck, 11 December 1863, *OR*, 456.



They were intended to preserve a measure of civil rights that citizens in uniform did not forfeit even in the Army. For emancipated African Americans military service codified some of their customary rights to pay and rations; offered legal protection from punishments they had routinely resisted; and gave them new rights to petition, education, due process, and the rule of law. In this way soldier status conferred the accidents of citizenship, if not formal title.

### ***Slave Resistance and Accommodation***

In Louisiana, South Carolina, and elsewhere emancipated slaves grasped early on that wearing the uniform entitled them to something better than a replication of their years in bondage. They also grasped that the ways enslaved people like themselves had found over the years to challenge the master's atomizing power could be redeployed to define the meaning of their soldier rights.

As newly freed blacks negotiated the place made for them in a white Army, they made sense of it through their relationship to whites in the institution of slavery. On the sugar plantations of Louisiana the harvest season stretched from mid-October to December, sugar cane processing consumed December, followed by putting down the crop for next year before Christmas. Sugar cane cultivation in Louisiana faced an extremely compressed agricultural cycle, being more susceptible to frost damage in these temperate latitudes. Moving from planting to harvest "involved extensive and arduous work." Planters sought some cushion from these climatic factors by embracing

mechanization. To make this adaptation profitable the planters needed “the mills to run from morning to night” during processing.<sup>49</sup>

Like elsewhere in the South, the enslaved labor that made such “agro-industrial” production possible was structured through the paternalist relationship masters established with their human property. In this scheme the enslaved served as “inferior members of their extended households” who received the masters’ protection, but owed obedience and labor.<sup>50</sup> In reality, sugar planters could and did enforce this system through the “customary models of antebellum labor discipline” like whipping, confinement, and sale. Overseers also routinely went beyond even this and employed clubs and paddles, punched and kicked slaves, and beat them with tools. In a few cases even more degrading punishments arose such as stripping slaves to the waist prior to an attack by cats.<sup>51</sup>

Enslaved African-Americans never completely accepted this arrangement while using their membership in this fictive household to gain access for themselves to customary protections and privileges. They avoided falling completely under the master’s sway and built lives of their own to varying degrees. They sustained their hopes for eventual freedom through Christianity’s promise of redemption for the lowly<sup>52</sup> and

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<sup>49</sup> Follett, *Sugar Masters*, 141, 143.

<sup>50</sup> Genovese, *Roll, Jordan, Roll*, 5-6, 597-8; Peter Kolchin, *American Slavery*, 111-18.

<sup>51</sup> Follett, *Sugar Masters*, 174-75, 179; Kolchin, *American Slavery*, 120-22.

<sup>52</sup> Levine, *Black Culture and Black Consciousness*, 7-10; Kolchin, *American Slavery*, 143-48; Albert J. Raboteau, *Slave Religion: The “Invisible Institution” in the Antebellum South* (New York: Oxford University Press, 1978), 212; John B. Boles, editor’s introduction, 1-18 and Blake Touchstone, “Planters and Slave Religion,” 99-126, both in John B. Boles, ed., *Masters and Slaves in the House of the Lord: Race and Religion in the American South, 1740-1870* (Lexington: The University Press of Kentucky, 1988).

nurtured their human dignity through the substantive relationships created within kin and family networks.<sup>53</sup>

This process was characterized by degrees of confrontation, the most threatening to slavery's myth of control being slave revolts and the survival of maroons on slavery's periphery. Revolts and fugitive communities were dramatic but intermittent forms of opposition to the system. The enslaved achieved more far reaching and permanent gains against its paternalist control through accommodation, chiefly by daily resistance and by turning the features of its labor arrangements to their advantage whenever possible.

First described by Eugene Genovese, accommodation was a cultural stance by which the enslaved accepted "what could not be helped without falling prey to the pressures for dehumanization, emasculation, and self-hatred."<sup>54</sup> Aided by their families and their own religion African Americans resisted the personal dependence at the root of paternalism. Most commonly this happened in connection with the central reason for slavery's existence—economic production. In one form this appeared as "daily resistance" like dissembling, stealing, and confrontation and even murder, infanticide, and arson. Yet, according to historian Steven Hahn, these were bold, occasional efforts by which "slaves resisted becoming creatures of their master's will."<sup>55</sup>

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<sup>53</sup> Blassingame, *The Slave Community*, 151-53, 172, 176-77, 190; Herbert G. Gutman, *The Black Family in Slavery and Freedom, 1750-1925* (New York: Vintage, 1977), 189-91, 261; Brenda E. Stevenson, *Life in Black and White: Family and Community in the Slave South* (New York: 1996), 107-08, 127-28. Hahn, *A Nation under Our Feet*, 35, 40. On the white male planter's sense of self, see Stephen W. Berry III, *All That Makes a Man: Love and Ambition in the Civil War South* (New York: Oxford University Press, 2002).

<sup>54</sup> Genovese, *Roll, Jordan, Roll*, 618-19.

<sup>55</sup> Genovese, *Roll, Jordan, Roll*, 597-98, 617; James Oakes, "The Political Significance of Slave Resistance," *History Workshop* 22 (August 1986): 89; Hahn, *Nation under Our Feet*, 19.

Accommodation could frustrate the master's power and reinforce his control because although legally property (not persons) slaves were nevertheless members of the master's household with personal ties to him. Even so, structures of power such as slave trade and the slave patrol hindered, but did not entirely prevent, the enslaved's ability to build bonds of identity across space and time with one another. Accommodation to the paternalist mindset of the master and slave as one household also intervened psychologically to hinder the possibilities of racial solidarity against white authority. Still, self-assertion was at work in the slaves' efforts to use their membership in the master's extended family to avoid perpetual abuse and remind him of his obligations to protect and provide for them.<sup>56</sup>

Outright acts of resistance and rebellion were less effective in this than the more mundane but thoroughgoing culture of "production, provisioning, and exchange" that characterized an internal economy between master and slave. Historians have uncovered how the enslaved strived to establish a customary system of obligations, privileges, and even rights vis-à-vis the master that would protect their fledgling dreams of freedom. When refusing en masse if ordered to work on a Sunday or gathering to insist on extra rations typically granted for overtime, the enslaved rarely sought to fundamentally challenge the institution of slavery. The enslaved knew full well that the plantation could only function properly with their collective presence, that the master could not practically do without them. Over a span of decades a community of slaves might win

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<sup>56</sup> Genovese, *Roll, Jordan, Roll*, 5, 590, 609-11, 615, 624-25; Kolchin, *American Slavery*, 150-55; Raymond A. Bauer and Alice H. Bauer, "Day to Day Resistance to Slavery," *Journal of Negro History* 27 (October 1942), 417; Levine, *Black Culture*, 142-43; Follett, *Sugar Masters*, 13.

concessions from their master through confrontations to establish kin-based work parties, free time on weekends, personal gardens to grow and sell produce and keep the proceeds, and routines of paid labor. All such reciprocities came as a consequence of slaves' membership in a paternalist unit of household production allowing for a specific set of customary obligations and expectations negotiated between master and bondspeople.<sup>57</sup> The freedman-soldier therefore did not have to come so far in understanding that his membership in a military association might afford him customary rights as well.<sup>58</sup>

These patterns of exchange and production created norms for the common household producing direct, occasionally desperate, forms of resistance when disregarded by the master. Plantation journals record enslaved people opposing overseers, and sometimes even masters, who resorted too quickly to the lash. Even slaves whom masters considered loyal, dependable servants could be as prone to physical confrontation as those classified as shirkers and ne'er-do-wells. Collective sanction of such actions grew out of slaves' collective accommodation to paternalism and the "rights" it conferred. The risks entailed by this mode of resistance called forth a level of solidarity among the enslaved on a plantation that one historian has termed "the collective judgment of the

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<sup>57</sup> Hahn, *Nation under Our Feet*, 17-33; Genovese, *Roll, Jordan, Roll*, 306-07, 598, 620-1; Blassingame, *Black Community*, 195-96.

<sup>58</sup> Solomon Northup, *Twelve Years a Slave* (Auburn, NY: Derby and Miller, 1853), 259-60, averred that the most ignorant and unschooled in the quarters possessed an "idea of freedom." They would keep the "the profits of their industry" and be preserved from "unmerited and unprovoked punishment." Northup also claimed the enslaved could exercise rights "remedy" against mistreatment and "to remonstrate" against false charges under the terms of accommodation, although not backed by the objective rule of law. Most importantly, freedom represented a body of "privileges and exemptions." Granted, Northup's definition needs also to be treated with care in serving as the voice of the enslaved: he was a free black from New York captured and sold into slavery in Louisiana from 1841-1853.

quarters”<sup>59</sup> based on their understanding and experience of what membership in a particular common household conferred.

Louisiana planters also recognized the endemic limitations on production imposed by accommodation and the culture of exchange: work slowdowns, destruction of tools, periodic confrontation, and running away. They could not afford such resistance within the short agricultural cycle that had led to the mechanization of grinding and pressing in the first place. They needed the enslaved members of their fictive households to “labor long hours without bringing the entire production process to a halt.” An incentive system of direct payment, holidays, and personal time intended as carrots to foster the enslaved’s intrinsic motivation arose as their answer to this dilemma.

These incentives amounted to a “pittance” compared to the cost of production. They strengthened the “web of duties and obligations,” and “tightened the slaveholders’ bonds of exploitation.” The cane planters had bought off resistance through “direct payment for work conducted after the end of the working day,” wages for piecework, extra pay for increased pace of work, and end of the year bonuses in credit at the plantation commissary or in kind. “Incentives of this type provided slaves with a modest income while encouraging self-policing and the chastisement of shirkers.”

By the beginning of the Civil War, Louisiana slaves in the sugar parishes were quite familiar with working for wages and had become adept at negotiating for “Christmas bonuses, extra food, and payment for the produce of their garden plots and overtime

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<sup>59</sup> Genovese, *Roll, Jordan, Roll*, 617-19 offers the term; see also Genovese, “Rebelliousness and Docility in the Negro Slave: A Critique of the Elkins Thesis,” *Civil War History* 13 (December 1967), 313; Wyatt-Brown, “Mask of Obedience,” 1248.

work.” They brokered with their masters for “specific holidays, improved housing, and the provision of whiskey and other goods for post-harvest celebrations.” Slaves took these arrangements even a step further by earning overtime pay for producing timber, corn, or livestock on their own initiative. A rhythm of reciprocity governed the functioning of Louisiana’s sugar plantations and its slaves came to expect “payment for their wood and corn just prior to the grinding season [mid-October and November], and on most plantations slaves entered the harvest with their demand for disbursable income at least partially satiated.”<sup>60</sup>

Mechanization and the incentive system, therefore, created a situation within which enslaved African Americans could claim “some very basic rights for themselves and their families.”<sup>61</sup> With incentives the enslaved could purchase “food, clothing, household goods, and tobacco” beyond their subsistence provisions from the planter.<sup>62</sup> In the areas around Fort Jackson, in fact, enslaved men and women hunted, fished and raised “green vegetables [*sic*]” which they sold for “a great source of their livelihood.” Once Union soldiers arrived this produce from the internal economy even served “as a great convenience to these ‘Forts’” according to one officer. The enslaved turned direct payment and extra time not only into a customary expectation within their membership

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<sup>60</sup> Follett, *Sugar Masters*, 5, 11-13, 139-40, 143; Ann Patton Malone, *Sweet Chariot: Slave Family and Household Structure in Nineteenth-Century Louisiana* (Chapel Hill, University of North Carolina Press, 1992), 32-37; Taylor, *Negro Slavery*, 106-09, 125-32.

<sup>61</sup> Follett, *Sugar Masters*, 143.

<sup>62</sup> Follett, *Sugar Masters*, 141; see also Genovese, *The World the Slaveholders Made: Two Essays in Interpretation*, with a new introduction by Genovese (Middletown, CT: Wesleyan University Press, 1988, original 1969), 121, 199.

in the plantation household, but engaged in “small businesses” offering them at least limited degrees of control over their own lives.<sup>63</sup>

Black soldiers continued as best they could the system of exchange and distribution they knew from their lives as slaves that had allowed them to gain control of their lives for brief periods. Soldiers slipped by camp guards to barter for better provisions, like “soft wheat bread” among the laundresses, kin who might accompany USCT regiments, or even whites living nearby. Once soldiers had finished their nighttime foraging they might have sequestered themselves and “talked right smart” some moments before returning to the regimentation of camp.<sup>64</sup> While absent the testimony of Benedict’s victims, if they had been attempting to slip beyond the boundaries of the post they likely were engaging in just this kind of behavior. By sharing resources and information, freedpeople continued in new circumstances “the obligations and responsibilities of kinship” that had helped them survive slavery. In turn emancipated black soldiers could draw sustenance for their freedom struggle inside the Army.<sup>65</sup>

These former slaves from Louisiana sugar country also harbored an expectation of additional compensation created by the incentive system during the most frenetic months of the agricultural cycle. Wages, bonuses, and holidays had become “rights” the enslaved expected to be honored by the master within the rubric of accommodation.

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<sup>63</sup> Brigadier General William Dwight to Brigadier General C. P. Stone, Chief of Staff, Headquarters, Department of the Gulf, 28 December 1863, Letters and Telegrams Sent, Forts Jackson and St. Philip, Part V—Garrisons and Posts, RG 393 Records of the Continental Commands, 1821-1920, National Archives, Washington, D.C. (hereafter Fort Jackson Letters Sent). See also Hahn, *Nation under Our Feet*, 26-27.

<sup>64</sup> Testimony of Sergeant Creed Carter to a general court-martial in the trial of Captain Evan D. Kennedy, 119<sup>th</sup> United States Colored Infantry, 22 August 1865, MM2865, Court-Martial Case Files, RG 153 Records of the Judge Advocate, National Archives, Washington, D.C.

<sup>65</sup> Hahn, *Nation under Our Feet*, 19.



They found an equivalent to one facet of the incentive system in the wages promised to them once they became members of a new institution, the Army. When these wages were found to be different from what other soldiers received, their frustration with the *inequality* of wages was not so different as that felt by Northern free black soldiers who initiated the pay crisis in South Carolina discussed in the preceding chapter. Yet, the men at Fort Jackson understood the question of unequal pay more deeply as a rupture of the rhythms of mutual obligation that had structured their former lives. The government had made a promise to pay them at a certain rate (along with their clothing, quarters, and rations) in order to provide for their subsistence. New freedmen-soldiers found themselves in much more precarious circumstances with none of the traditional supports. They were removed from the plantation and stationed at a post with living conditions that were difficult, to say the least, without the incentives of food that were often in addition to the master's distributions of provisions.

The confrontation over soldier rights and membership in the Army that unfolded at Fort Jackson had its deepest origin in the nature of production endemic to the sugar parishes of Louisiana and the culture of reciprocity it engendered. For these erstwhile slaves wearing blue uniforms early December would have traditionally been the end of the harvest and grinding seasons and the approach of their Christmas holiday. Extra work pay and other incentives like additional molasses, pork, and liquor might have already been distributed. Instead in 1863 they had not been paid in months, drew spartan rations, and lived in frigid tents on the edge of a malarial swamp.<sup>66</sup> Worse yet, they had

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<sup>66</sup> Wilson, *Campfires of Freedom*, 204-08; Harrington, "The Fort Jackson Mutiny," 425.

endured months of physical punishment little different from what they had received from overseers.

The Fort Jackson mutiny exemplifies how military protest actions by freedmen-soldiers were simply a new field of confrontation where new protections and reciprocities had to be won. The insubordination, mutinies, and even political speech in Army courts-martial by freedmen-soldiers drew on a tradition of customary rights won through confrontation with the master. Membership in their master's household unit of production—however exploitative—had also provided avenues for encounter, negotiation, and confrontation that over time produced reciprocal obligations and customary privileges. After slavery they had a new status as soldiers and access to codified rights and judicial protections residing primarily in the Articles of War and the Army regulations. The reality of their life at Fort Jackson forced a familiar confrontation: defining the meaning of membership. Their new status as freemen in uniform during a revolutionary time linked their quest for the rights of soldiers with the military decrees, executive proclamations, and congressional acts that together shaped the story of how ordinary freedpeople first defined the content of their eventual citizenship. It would be membership no longer in an imagined household, not even only in a volunteer regiment, but in a sovereign body politic.

### ***Freedpeople under the Federal Occupation***

Demonstrating the role of Louisiana's emancipated slave soldiers in these circumstances necessitates situating them within the historic changes that unfolded there, specifically their introduction to military law and Northern white political and racial

ideology. Federal forces occupied New Orleans in April 1862 and spread their control over the surrounding parishes. Thousands of slaves fled into Union lines and that ground sugar production to a halt. Lincoln's concern to secure the support of loyal whites necessitated restarting the sugar economy. Sensing this pressure, Banks instituted a free labor system during 1863 designed to keep most of the freedpeople on the plantations. Working for one to three dollars a month, men obtained an acre of land for personal use along with housing, food, and clothing for them and their dependents.<sup>67</sup> Free laborers and their employers (often their former masters) immediately became subject to military law. Provost marshals investigated disputes; courts-martial adjudicated them. Flogging was prohibited and, among other rights, freedpeople gained protection against double jeopardy, a two-year statute of limitations, and access to judicial appeal.<sup>68</sup>

The reality was not so clear-cut. Provost marshals in the parishes could be manipulated by employers through racist appeals and failing this, with bribes. Trumped-

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<sup>67</sup> The Emancipation Proclamation exempted federally occupied Louisiana, yet the de facto reality for escaped slaves was that federal authorities did not comply with orders directing their return. In any case, Banks's labor plan acknowledged both factors by pushing freedpeople to labor on the plantations, but under federal protection. For the planters' influence on Banks's views see, W. J. Minor et al. to Major Genl. Banks, 14 January 1862 [1863], Letters Received, Department of the Gulf, RG 393, Part 1, Records of U. S. Army Continental Commands—Geographic Departments, National Archives, Washington, D.C. (hereafter Gulf Department Letters Received). Freedpeople worked for former masters who had taken the loyalty oath or Northern lessees of Confederates' plantations seized by the federal government. See Stephen V. Ash, *The Black Experience in the Civil War South*, 64-65, 70; Messner, "Federal Army," 141-201, 261-63; Charles P. Roland, *Louisiana Sugar Plantations*, 82, 103-05, 115; "Gen. Banks Vindicated by a 'John Brown' Abolitionist: a Letter from Rev. E. M. Wheelock," *The Liberator* (Boston), 13 March 1865.

<sup>68</sup> Articles eighty-seven, eighty-eight, and ninety, *Revised United States Army Regulations of 1861, with an Appendix Containing the Changed Laws Affecting Army Regulations and Articles of War to June 25, 1863* (Washington, D.C.: United States War Department, Government Printing Office, 1863), 499. "A Valuable Publication," *The Liberator* (Boston), 29 July 1864; "General Banks Vindicated;" Willoughby M. Babcock, Jr., *Selections from the Letters and Diaries of Brevet-Brigadier General Willoughby Babcock of the Seventy-fifth New York: A Study of Camp Life in the Union Armies during the Civil War*, Bulletin 2, War of the Rebellion Series (Albany: SUNY, Division of Archives and History, 1922), 90. Babcock served as provost marshal for Pensacola, Florida, in May 1862 while a major in the 75<sup>th</sup> New York.

up charges of theft, unauthorized absence, and insubordination could be fabricated. Many provost judges placed African Americans on public work projects for months of hard labor or in confinement for weeks on the plantation following daily labor. All of this compromised the rule of law in favor of the prejudices of Northern lessees or “Unionist” former masters. Laborers, however, no longer had to simply accept such travails. Emancipated blacks regularly exercised their freedom and left plantation employment they viewed as unjust, resisted demeaning labor discipline, or ignored unreasonable orders from unsympathetic employers. Freedpeople’s complaints to the provost marshals about whipping, lack of provisions, and uneven pay could just as often result in fines against white employers. A Louisiana freedman captured the ambiguity of their new lives: “Wese ony jess tasted de hard tack of de Yankees, but wese had nuff to know dat wese goin’ to eat no more hoe cake in de slave cabin.”<sup>69</sup>

Military law offered great potential to give form and substance to black freedom by protecting emancipated blacks’ movements, bodies, and speech. Masters had stood essentially above the law. Slaves in antebellum Louisiana could not enter a civil complaint or press criminal charges against whites. Courts only intervened at the behest

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<sup>69</sup> Stephen V. Ash, *When the Yankees Came: Conflict and Chaos in the Occupied South, 1861-1865* (Chapel Hill: University of North Carolina Press, 1995), 87-88. On the provost marshal’s divided loyalties see, Messner, “Federal Army,” 175-78. Draft Plan for Black Labor in Louisiana, 1862, Nathaniel Banks Papers, Library of Congress; Memos, 16 November 1863-28 December 1863, Office of the Provost Marshal, Brashear City, Louisiana, and Memos, Provost Judge to Assistant Provost Marshal General, Colonel Thomas E. Chickering, Office of the Provost Marshal, Parishes of Plaquemines and St. Bernard, Louisiana, 31 July 1864 both found in HQ Department of the Gulf, Entry 1836—Miscellaneous Records of the Judge Advocate General, Vol. 3, Record Group 393, Pt. 1 Records of U. S. Army Continental Commands—Geographic Departments, National Archives, Washington, D.C. (Brashear City, Plaquemines, and St. Bernard Provost Marshal’s Notes hereafter) The memos contain provost judges’ notes on cases he adjudicated. African American defendants carried the explicit designation of “colored.” See also Roland, 82, 103-05; Messner, 270-275; Smith, 24-26. The freedman’s quote is found in “Our Corps d’Afrique,” *The Liberator* (Boston), February 15, 1864.

of owners needing to sue irresponsible overseers whose abuse or murder of slaves jeopardized their human property. Although slaves technically had protection in Louisiana's Black Code against cruel punishment, flogging, hog tying, and confinement were excluded from its definition.<sup>70</sup>

In contrast, freedpeople assumed expansive rights and protections under military law's auspices. A provost marshal described African Americans with a "spirit of indepedance [sic]" that spurned "the same treatment...they have heretofore quietly submitted to." In Plaquemines parish, slaves insisted on wages from their former owner before the free labor system was in place. They went on strike to make their point, going to so far as to hang the master in effigy. The work stoppage combined with a threat of personal violence finally served to institute wages.<sup>71</sup> In 1863 a Northern newspaperman reported that plantation laborers near the Gulf Coast "respectfully" complained to their "proprietor" about an overseer's "reputation" for indiscriminate flogging and harassing black women. They insisted he fire the man. When he refused, the freedpeople "packed up their little bundles, and started on the road to Fort Jackson" for jobs as camp hands and laundresses rather than return to the fields. The former owner was stunned that what he had once "stigmatized as 'things'" now "know their rights, and knowing, dare

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<sup>70</sup> Judith Kelleher Schafer, "'Details Are of a Most Revolting Character': Cruelty to Slaves as Seen in Appeals to the Supreme Court of Louisiana" in Paul Finkelman, ed., *Slavery and The Law* (Lanham, MD: Rowman & Littlefield, 2001), 199; Eugene D. Genovese, "Rebelliousness and Docility in the Negro Slave: A Critique of the Elkins Thesis," *Civil War History* 13, no. 4 (December 1967), 303; Kolchin, 130-32.

<sup>71</sup> Hahn, *Nation under Our Feet*, 85.

maintain.” He met their request and the freedpeople went directly back to work.<sup>72</sup>

According to historian Steven Hahn, these “contests and accommodations” took place across the South and “after 1863 increasingly yielded the sort of arrangements that seemed to acknowledge the passing of an old order and the emergence of a new one.”<sup>73</sup>

The “rights” the owner alluded to were of that new order: a combination of the privileges and incentives blacks had achieved in bondage and the new legal protections extended to them under military law. When they complained of whippings by the overseer’s penchant for the lash, they knew it had been outlawed and they would no longer tolerate it as freepeople. Marching on the road to Fort Jackson was not only for employment but to make a report to the military authorities there. How tellingly ironic that black soldiers garrisoning the post would mutiny in December 1863 over precisely that breach of military law.

These conflicts between employers and laborers frequently led to charges by Federal officials who supervised the plantations. For example, in the parishes of Plaquemines, St. Martin’s, St. Mary’s, and St. Bernard in November 1863 to July 1864 all the charges against employers were for whipping or assault on African Americans. Fines were usually imposed in the range of fifteen to thirty dollars, a substantial sum of money in 1863. The Army was quite quick to pounce on examples of abuse against black laborers if for nothing else than fear it would disrupt calm on the plantations. For the same reason it dealt sternly with laborers who shirked, deserted, or refused orders.

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<sup>72</sup> Ash, *The Black Experience in the Civil War South*, 78-81, provost marshal of Jefferson Parish, Louisiana, June 1863, quoted on 80; “General Meade’s Official Report,” 20 November 1863, *The Liberator*.

<sup>73</sup> Hahn, *Nation under Our Feet*, 86.

Black laborers in the four sugar parishes were found guilty at only a slightly higher rate (80 percent) than that for all Union soldiers (76 percent) despite a smaller percentage of African American soldiers standing trial than whites. They were found guilty of several crimes: 39 percent of the charges against black laborers were for dissent (insubordination, mutiny, or mutinous conduct). Another 33 percent were for theft, 17 percent for desertion, and 11 percent for violent crimes. By comparison, in all of the Army's general court-martial cases over the entire war dissent was 46 percent and desertion another 36 percent. Together theft and violent crimes accounted for 18 percent. The higher incidence of theft indicates black laborers who continued to use it as a resistance tactic retained from slavery. The data also reveals that black laborers, like the anecdotes cited, opted for confrontation over escape thrice as often.<sup>74</sup> Emancipated blacks in Louisiana both in and out of uniform lived under a system of law that charged them and determined guilt in a fair manner compared to what soldiers, white or black, experienced in the Army.

Race played a disproportionate role, however, in the sentences for both emancipated black civilians and those in uniform. According to one scholar, black soldiers bore sentences of hard labor or death "at a higher percentage than white soldiers."<sup>75</sup>

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<sup>74</sup> Brashear City, Plaquemines, and St. Bernard Provost Marshal's Notes, the two blacks charged with assault committed them against another black; Ramold, *Baring the Iron Hand*, 326-31, notes that for dissent charges specifically, black soldiers accounted for 42 percent; whites 47 percent. I rely on Ramold's statistical analysis of general courts-martial. I derive dissent charges by combining Ramold's categories of Disciplinary crimes (28 percent of all charges) and antiauthority crimes (18 percent). Averages provided me by the author in email correspondence, 30 June 2011. The statistics for the Army do not differentiate between Northern and Southern blacks.

<sup>75</sup> Ramold, *Baring the Iron Hand*, 333. He states blacks were twice as likely to receive death and hard labor in cases where such penalties could be handed down.

Punishment at hard labor certainly was a fact of life for black laborers found guilty. The provost judge handed down a sentence of hard labor or confinement in 71 percent of the cases in the four parishes. And the length of those sentences averaged twenty-two days for hard labor and twelve nights for confinement.<sup>76</sup> Labor and confinement's predominance ensured a tractable labor force necessary to serve the needs of the Federal war effort while placating employers who were skittish about the prospects of social revolution after emancipation. These discrepancies in punishment would be in effect for the men found guilty of the Fort Jackson mutiny.

Yet, various efforts that acquainted them with the rule of law had already begun to lay some of the groundwork for later military protest actions. It had started for some of these men as free laborers on the sugar plantations living under military law before they enlisted. The education these men received while in the Army also sowed seeds of self-government. General Banks created an "accessible version" of the Articles of War in order that freedmen-soldiers might know for themselves the laws which governed their new lives.<sup>77</sup> At least a few company officers in the 4<sup>th</sup> Infantry also followed their obligation to regularly read their men the Articles of War.<sup>78</sup>

These developments determined that emancipated slave soldiers would understand Drew and Benedict's regime of abuse not only through the prism of enslavement, but

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<sup>76</sup> Over the course of the war, all soldiers performed hard labor 42 percent of the time, fines were 20 percent, dishonorable discharge 11 percent, confinement 9 percent, and capital punishment 6 percent, Ramold, 328. The breakdown of sentences for black laborers was hard labor 42 percent of the time and confinement 29 percent of the time, Brashear City, Plaquemines, and St. Bernard Provost Marshal's Notes.

<sup>77</sup> Banks to Halleck, 17 December 1863, *OR*, 457, 459.

<sup>78</sup> Knapp testimony, 13 December 1863, *OR*, 473; Benedict testimony, 13 December 1863, *OR*, 474.



through the rights attached to their status as soldiers. This process received important additional support shortly after Benedict's outrages at Baton Rouge. Adjutant General Lorenzo Thomas, inspector of all the colored troops in the Army, visited the forts in September 1863. During his speech to them, Thomas promised to discharge any officers who violated the guarantee made to former slaves in Louisiana and elsewhere that they would not be flogged. In one sense, Thomas was simply broadcasting what Congress had already made law in August 1861.<sup>79</sup> In another, Thomas was reassuring his audience that their soldier rights would not be honored only in the breach. According to none other than General Banks, this was a right the soldiers of the Corps d'Afrique had made a "condition" of their service from the beginning.<sup>80</sup> Here was a specific instance of how erstwhile slaves continued their practice of "turning privileges won into rights to be defended"<sup>81</sup> after they achieved the status of Union soldiers protected by military law.

Unfortunately for them, their conviction that they had soldiers' rights shielding them from unusual punishment did not alter the reality of their lives in the 4<sup>th</sup> Infantry.

Confident that exercising their rights under the Articles of War would effect change,

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<sup>79</sup> Section 3, Act of 5 August 1861, Chap. LIV, *The Statutes at Large, Treaties, and Proclamations of the United States of America*, Vol. 12 (Boston: Little, Brown, 1863), 317. The act was cited in a footnote to the original guidelines governing how many lashes a court-martial could impose on soldiers it convicted contained in article eighty-seven, *Revised United States Army Regulations*, 499.

<sup>80</sup> Some men believed it was General Ulysses S. Grant addressing them, Miller testimony, 12 December 1863, *OR*, 467-8; "condition" quoted in Banks to Halleck, 11 December 1863, *OR*, 456; Messner, "Federal Army," 296. For the earnestness of Thomas's own convictions that black enlistment effected black citizenship, see coverage of his speeches to black audiences in the Mississippi Valley by the *New York Times*, 7 June and 28 November 1863 and in "The Negro Troops in the Southwest," *Harper's Weekly* 7, 14 November 1863; also Michael T. Meier, "Lorenzo Thomas and the Recruitment of Blacks in the Mississippi Valley, 1863-1865" in John David Smith, ed., *Black Soldiers in Blue: African American Troops in the Civil War Era* (Chapel Hill: University of North Carolina Press, 2002), 249-69.

<sup>81</sup> Hahn, *Nation under Our Feet*, 33.

some men questioned their officers why they had to obey Lieutenant Colonel Benedict if he would not obey General Thomas. Several objected vociferously about the abuse under which they lived. Such complaints had sanction under the thirty-fifth Article of War: if any soldier “thinks himself wronged by his Captain or other officer, he is to complain thereof to the commanding officer of the regiment, who is required to summon a regimental court-martial, for doing justice to the complainant.”<sup>82</sup> Increasing evidence that their rights as soldiers, and their newfound freedom, were in jeopardy eventually led to their protest action of mutiny to restore military law’s role as a shield against tyranny, not solely as a prod to obedience.<sup>83</sup>

Freedmen-soldiers stepped into a new institution that promised them a sphere of heretofore denied rights backed up by statutory protections, yet the institution failed to make good on its promise. They recognized their commanding officers’ punishments as akin to the world of the slave, not the world of the free man. In response they harnessed the “politics of slaves” to their brief schooling in Northern political culture, their varied acquaintance with the Army regulations and Articles of War, and assurances from general officers about proper treatment. Protest actions like the Fort Jackson mutiny bridged black soldiers’ hopes for freedom conceived in bondage and the practical possibilities of citizenship offered as members of the Army.

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<sup>82</sup> Drew testimony, 12 December 1863, *OR*, 463; articles thirty-four and thirty-five stipulated soldiers were to first bring complaints to their company commanders, *Revised United States Army Regulations*, 491.

<sup>83</sup> Drew testimony, 12 December 1863, *OR*, 461; Benedict testimony, 13 December 1863, *OR*, 474. According to General Dwight, “The soldiers of this regiment knew that Col. Drew always sustained Lt Col. Benedict and that therefore they had no source of redress....Complaints were neither heard by Col. Drew nor forwarded to higher authority;” Dwight to Brigadier General C. P. Stone, 14 February 1864, Drew CMSR.

All African American soldiers lived not only with their discrepancy in pay compared to the thirteen dollars for whites, but also the absence of the higher pay extended to white non-commissioned officers, the insult of having money deducted for clothing rather than the clothing allowance white soldiers enjoyed, and occasionally officers' embezzlement of their pay. What "aggravated" these petitions to Colonel Drew was a sense that the "freedom" they were living in the 4<sup>th</sup> Infantry preserved so much of the old system of exploitation with none of the security they had once obtained through accommodation. They organized a demonstration of resistance on 9 December to demand the government meet its obligations of "beneficence." Their complaints and Drew's responses gave an implicit acknowledgement to the soldiers' membership in the body politic. The mutiny sprang from the mentalities of slavery wedded to the potent context of citizens who had been denied their equal rights under the mainstream American constitutional principles of popular sovereignty, citizen consent, and the rule of law.

Louisiana freedpeople in and out of uniform contended not only with abuse and disdain from officers or provost marshals. Their civilian teachers and ministers along with the Army chaplains and surgeons also represented white authority despite not having military or legal suasion. All of them promoted mainstream Northern cultural values. Chaplains and ministers preached the moral self-control of Northern evangelical Christianity that sometimes clashed with a slave Christianity emphasizing liberation. When their sermons counseled surrender to God's will and deference they sounded to the freedpeople like the old preaching of white ministers who had prayed obedience to

the master above all. Surgeons practiced according to middle-class values about hygiene and good health. Surgeons and chaplains typically judged black moral and hygienic values as deficient and so blacks remained, as under slavery, objects of manipulation for whites.<sup>84</sup>

Freedpeople's well-documented desire for education meant Northern white teachers, often women, also played a crucial role. Freedpeople deemed literacy so vital that they petitioned General Banks in the summer of 1863 for schools if their labor on the plantations were to continue. Beginning that fall schools for black civilians began to arise in nearly every garrisoned town, colored regiment, and contraband camp. Within the Corps d'Afrique, a captain oversaw a regimental school, requisitioned the necessary books, and supervised the curriculum of reading, writing, and basic mathematics with the goal that all soldiers be able to read and the non-commissioned also be able to write.<sup>85</sup> Despite some strides made towards literacy, many of the freedmen in uniform remained functionally illiterate. They depended on their literate comrades and their white company officers to interpret and explain their duties and protections under the

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<sup>84</sup> During the entire war the Army employed fewer than twenty-four blacks as either chaplains or surgeons. Ira Berlin, et al., *Freedom: A Documentary History of Emancipation, 1861-1867, Series II, The Black Military Experience* (New York: Cambridge University Press, 1983), 309; Glatthaar, *Forged in Battle*, 189-93.

<sup>85</sup> At the 1864 state constitutional convention, public schools for blacks, though poorly funded, even won public support. By 1865 more than half of the black children in federal Louisiana attended a public, private, or Sunday school, Messner, "Federal Lact391-92, 411-15. "A Valuable Publication," *The Liberator* (Boston), 29 July 1864; General Orders, No. 72, Department of the Gulf, 28 September 1863; Banks to Halleck, 17 December 1863, *OR*, 458-9; General Daniel Ullmann entreated the American Christian Association to send the first teachers to Louisiana for the soldiers in his brigade, Draft "Report of Daniel Ullmann's War Experiences," Ullmann Papers, 16 April 16 1889, New York Public Library; Levine, 140-41; "Our New Orleans Correspondence," *New York Times*, January 11, 1864; Steven Hahn, 97-99.

regulations and Articles. Thus, the influence of Northern ideas about soldiers' rights through their white officers played a formative role.

Education by white teachers reinforced and gave intellectual form to freedmen-soldiers' inchoate ideas about freedom. While their teachers tried to inculcate Northern middle-class values like personal independence, ambition, perspicacity, sobriety, the readers and spellers used for instruction "constantly reaffirmed the central political symbols of individualism and the triumph of Will." Educators pushed blacks "to change individually, to embrace new models, to think along new lines" in order to "turn their backs on the past and the traditional ways of thought and action." Education put freedmen-soldiers in touch with Northern political ideals of self-government and personal independence. A soldier's speech on the occasion of his first Christmas as a free man calls attention not only to his liberty, but to his new status as a member of the Union Army. "I say for *myself*....We was down in de dark land of slavery. And now....We are free men, and soldiers of de Unite States."<sup>86</sup> A free man could speak for himself and with that voice he could define the meaning of his freedom; particularly in his new role as a soldier of the republic.

The training and drill they received as soldiers also introduced the freedmen to Anglo American ideas about the arms-bearing citizen in uniform. Significantly, the freedmen employed the training and discipline that marked them as soldiers in order to defend their new status and its concomitant rights. They gave substance to their protest

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<sup>86</sup> Levine, *Black Culture*, 143–44; "Our New Orleans Correspondence," *New York Times*, January 11, 1864. The sergeant in the 7<sup>th</sup> Infantry, Corps d'Afrique "praises de Lord" for Abraham Lincoln—"a great man what has done more good dan any oder man whatever was borned." Emphasis added.

action by bearing arms like white citizen-soldiers—even in collective dissent—against violations of their soldier status. They had daily practiced the specific, complicated steps to load their rifle-muskets observed by Colonel Drew during musket drill. Rather than a routine of enslaved life, they had acquired it as a soldier's skill. They had honed it not as individuals but in formation during company drill on the very parade ground where they staged their protest. In formation “the closeness that each soldier felt to his comrades on either side gave him strength” during the moral and physical test of battle. This “psychology of the battle line” stiffened the resolve of the mutineers on 9 December. Arranging themselves in formation served as a potent symbol of the freedmen's new soldier status just as it buoyed Anglo citizen-soldiers defending the Union and their existing liberties. At Fort Jackson the mutineers wrapped their claim to customary rights as soldiers in the martial discipline they had acquired from the very white officers who thought it impossible for former slaves to do so.

The effect of all these Northern influences was, therefore, complex. Northern racism on a number of fronts showed blacks that their new independent spirit would be stifled if left untended by their own efforts. Education and vicarious contact with Northern values and practices, however, suggested a body of political ideals that could justify their claims to freedom. All of these vectors of social influence collided with the preexisting mentalities of slavery. Confrontation and negotiation had given them a tool set for constructing a rough freedom within a capricious institution. Military law became a preexisting framework of specific rights and protections born of white political values that freedpeople in and out of uniform began to harness to the old “politics of slaves.”

The application of military justice against newly free African Americans in Louisiana was likewise filled with contradictions. They could realistically expect that abusive employers would be punished, even if only by fines. They possessed as much chance of gaining acquittal as a white soldier, yet they faced much more difficult sentences if convicted. Freedmen-soldiers came to know these same challenges. At Fort Jackson their dissent from within the ranks, however, forced the Army to take its promises of protection and justice for all citizen-soldiers that much more seriously. The experiences of civilian freedpeople with military justice compared to its operation within the Army cautions against an interpretation of black dissent as simply redress against racist treatment. Emancipated black soldiers' military protests occurred because they grew frustrated that their status as soldiers did not protect them any better in freedom from the same kind of abuses they had known in slavery.

### ***The Aftermath***

Only days after the mutiny, Private Frank Williams tried to stand upon the rights that he and the mutineers believed they had won. Williams had been the only soldier to threaten violence against an officer during the affair. Seemingly in contempt of his promises, Drew arrested and confined Williams in the guard house *before* he ordered charges be proffered for threatening the life of an officer. Williams promised that he ““would be damned if he would go until he knew what he was sent for”” and promised to escape or die trying. It is unlikely that Williams understood he invoked *habeas corpus*, but he appeared to grasp that as a soldier in the 4<sup>th</sup> Infantry he had a right to go free if there were no formal charges against him. Captain Nye testified that long-standing

procedure at the fort dictated that “unless charges are preferred within twenty-four hours, or before the next guard-mounting, the new officer of the day has orders to release” any prisoner.<sup>87</sup> Furthermore, when Drew later faced arrest and possible trial for his role in mistreating the soldiers, he protested that a copy of the charges against him had not been furnished and that he had been kept under arrest in violation of Federal law specifying all persons in the service of the United States under arrest be given a copy of any charges within eight days or be released.<sup>88</sup> Williams, like his post commander, stood on his soldier rights, rights recently defended by the mutiny, a military protest action born of the enslaved’s own longstanding efforts to establish customary privileges and protections.

The Williams affair also exposed Drew’s fundamental opposition to these aspirations (what he condescendingly termed their “triumph”) despite his promises in the heat of the moment. After all, he ultimately saw to it that Williams would be court-martialed for his actions on the parade ground. Drew’s primary concern, and that of the Army high command, remained the restoration and maintenance of order. He confined Benedict at the mutiny’s outset only to not “prolong the mutiny” and conceded to the mutineers reluctantly once his authority seemed attenuated. Although he dispatched Benedict to

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<sup>87</sup> Drew also rearrested the men released from jail during the mutiny, but as these men had been confined previous to the mutiny it seems more to do with restoring legitimate military order, Drew testimony, *OR*, 460-63; Nye testimony, *OR*, 466; Banks to Halleck, 11 December 1863, *OR*, 456. Banks denied the resignation and eventually ordered Benedict to appear before the military commission and then stand trial at the court-martial; Benedict to Major G. Norman Lieber, Acting Assistant Adjutant General, Department of the Gulf, 10 December 1863, in Augustus W. Benedict, 76<sup>th</sup> United States Colored Infantry, CMSR. Williams violated the ninth Article of War, *Revised United States Army Regulations*, 486.

<sup>88</sup> Drew letter to Lieutenant D. C. Payne, Acting Assistant Adjutant General, Department of the Gulf, 14 February 1864; Drew CMSR; *Congressional Globe*, 37<sup>th</sup> United States Congress, 2<sup>nd</sup> Session, Act of 17 July 1862, 12 Stat. 595-96.



Gulf Department headquarters in New Orleans the next morning, he also encouraged him to quickly resign in hopes of obtaining an honorable discharge.<sup>89</sup>

A reflexive need for order consumed the imaginations of whites at Banks's headquarters, in New Orleans, and beyond. Drew argued that the mutineers believed Benedict had fled seeking escape on a steamboat docked at the nearby wharf on the Mississippi River and intended to march on New Orleans to locate him.<sup>90</sup> These spurious reports probably led to Banks's initial dispatch of the white 83<sup>rd</sup> Ohio to secure Fort Jackson under gunboat escort when he heard nothing from Drew after reports of gunfire reached him. Fearing the worst, he relieved the colonel and tasked Brigadier General William Dwight with restoring order at the post.<sup>91</sup> Once in command Dwight divined that, "Indeed the whole object and scope of the mutiny in its conception was to march to New Orleans to present their grievances and ask protection and redress."<sup>92</sup>

In addition, exaggerated stories spreading from the Crescent City likely aggravated Banks's fears. New Orleans correspondents for major Northern papers presented the mutiny as a localized affair by black soldiers who "had never intended to create mutiny

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<sup>89</sup> Testimony of Colonel Charles W. Drew, commandant of the post of Forts Jackson and St. Philip to a military commission, 12-13 December 1863, *OR*, 460-1.

<sup>90</sup> The steamboat's captain rattled off several panicky telegrams to Banks's headquarters suggesting the soldiers were rampaging over the surrounding countryside and threatening local whites; Banks to Halleck, 11 December 1863, *OR*, 456.

<sup>91</sup> Banks also sent a white artillery battery later on 10 December, Banks to Halleck, 11 December 1863, *OR*, 456; Headquarters Department of the Gulf to Fort Jackson, Defenses of New Orleans, Telegrams of 10, 11 December 1863, Letters and Telegrams Received, Box 1, Forts Jackson and St. Philip, Part V—Garrisons and Posts, RG 393 Records of U.S. Army Continental Commands, 1821-1920, National Archives, Washington, D.C. (hereafter Fort Jackson Letters Received); Garrison Return for Forts Jackson and St. Philip, December 1863, Returns from U.S. Military Posts.

<sup>92</sup> Brigadier General William Dwight to Brigadier General C. P. Stone, acting assistant adjutant general, Department of the Gulf; 14 February 1864, contained in Charles W. Drew, 76th United States Colored Infantry, CMSR.

or shed blood.”<sup>93</sup> Hyperbole abounded, however, in Southern and border state newspapers. They eagerly printed any rumors—even as they occasionally discounted them—which might present the mutiny as exemplary of emancipation’s hypocrisy: the Yankees had no idea how to manage such a gullible, degraded race and were now the victims of their own misguided attempts to bestow an undeserved freedom on the blacks. While the mutiny could be read as mindless mobbing, it also was frighteningly familiar when dressed as a slave uprising. According to one distorted fantasy, the forts had as many as 6,000 black troops who eventually killed two hundred white officers, destroyed the magazines, and disabled the cannon. To mollify their readers, many Southern accounts reprinted a rumor that the blacks had handed the forts over to rebel prisoners held inside, though no Confederates were there. These accounts turned the mutiny into a demonstration by loyal slaves who had come to their senses and resumed their proper place of subordination. Yet, it was the *Memphis Daily Appeal* that came the closest to appreciating the freedmen-soldiers’ true attitude. It observed that the blacks were “demoralized by the gift of nominal freedom” and had grown “impatient for larger liberty.” The Tennessee paper also was alone in making any connection to slavery’s role

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<sup>93</sup> “From New Orleans,” *Boston Herald*, 21 December 1863; “Interesting from New Orleans,” *New York Herald*, 21 December 1863, relegated the mutiny to minor news, but mentioned exaggerated reports had abounded.

in fostering resistance, observing that the approach of Christmas had made the men yearn for “their customary holiday.”<sup>94</sup>

The mutiny had indeed been a bid for “larger liberty” and the soldiers’ continued efforts to this end prevented life at Fort Jackson returning to the *status quo ante*. Some individuals responded defiantly at reveille on 10 December, but every soldier did answer his name at roll call according to regulations. The relief of Lieutenant Colonel Benedict was only a small relief for his soldiers. The root issue had merely become glaringly exposed: their rights as soldiers must be respected under military law.

General Dwight believed a state of “passive mutiny” nevertheless continued.<sup>95</sup> This man was no stranger to commanding African Americans. At the siege of Port Hudson earlier in the year, the besotted officer had commanded a division embracing the all-black 1<sup>st</sup> and 3<sup>rd</sup> Louisiana Native Guards. His orders for a frontal assault to salvage the initial attack by white soldiers on 27 May 1863 resulted in heavy casualties and retreat. Official reports and newspaper accounts that emphasized the men’s bravery and tenacity had encouraged white support for further black enlistment.<sup>96</sup> Dwight’s opinion of freedmen-soldiers, however, had remained unchanged. Blacks “are more brutal than the

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<sup>94</sup> “Sunday Night’s Dispatches,” *Louisville Daily Herald* (Louisville, KY), 21 December 1863; “Fighting between the Negroes and Yankees,” *Daily Dispatch* (Mobile, AL), 25 December 1863; “The Mutiny at Fort Jackson,” *Memphis Daily Appeal*, 25 December 1863; “The Affair at Fort Jackson,” *Memphis Daily Appeal*, 26 December 1863; “From New Orleans—The Revolt at Fort Jackson,” *Charleston Mercury*, 28 December 1863; Banks to Halleck, 11 December 1863, *OR*, 456.

<sup>95</sup> Banks to Halleck, 11 December 1863, *OR*, 456; Knapp testimony, *OR*, 473; Drew testimony, *OR*, 462; Dwight, Commanding the Post of Forts Jackson and St. Phillip to Brigadier General Charles P. Stone, Chief of Staff, Headquarters Department of the Gulf, New Orleans, 20 December 1863, *OR*, 868.

<sup>96</sup> Dwight quoted in Lawrence Lee Hewitt, “An Iron Route to Glory: Louisiana’s Native Guards at Port Hudson,” in John David Smith, ed., *Black Soldiers in Blue: African American Troops in the Civil War Era* (Chapel Hill: University of North Carolina Press, 2002), 84-89.

whites,” “they do not yet know what to do with their power and liberty,” and “they mistake the nature and use of both.”<sup>97</sup>

Dwight could recognize, however, a failure of military leadership when he saw it. As he spent time around the 4<sup>th</sup> Infantry at Fort Jackson he came to believe that Drew had been complicit in Benedict’s regime of abuse and “unwise at times in the past” about “kicking and striking his soldiers.” The brigadier proffered charges against Drew, though he later withdrew them for lack of evidence. Soldiers greeted news of the charges, however, as evidence that they now had the Army’s attention in the mutiny’s wake. Dwight’s consideration encouraged them to bring further complaints to him about six officers who continued to sexually harass the black laundry women who lived outside the fort. Like their Northern black counterparts, these freedmen-soldiers linked service in the Army with protection of their dependents, specifically against the perpetuation of plantation-style sexual domination. In response, Dwight charged these men with conduct unbecoming and initiated a court-martial in February 1864.<sup>98</sup> In spite of his own racial prejudice, Dwight recognized the trampling of soldiers’ rights as an “abuse of power” that was not “military discipline.” Drew and Benedict’s system of “physical terror” was “degrading to the officer who uses it and to those who suffer from it.” Such “unlawful, unnecessary, and ill-judged violence” had gone beyond “physical endurance” and

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<sup>97</sup> Brigadier General William Dwight, commanding post of Forts Jackson and St. Philip, to Brigadier General C. P. Stone, chief of staff, Department of the Gulf, 4, 7, 10, 11 January 1864, Fort Jackson Letters Sent.

<sup>98</sup> Dwight to Stone, 28 December 1863, Forts Jackson Letters Sent. It should be noted, however, that the black soldiers and laundresses who testified at the trial made neither explicit nor implicit claims that the mutiny had been in their defense. The court-martial testimony is found in NN1332, Court-Martial Case Files, RG 153 Records of the Judge Advocate, National Archives, Washington, D.C. Wilson, 204-08, and Harrington, 425, see the timing of events as sufficient evidence to warrant such a conclusion.

“caused the late mutiny.” The colonel had to be dismissed or else his “ill-judged unlawful violence will again produce the same result.”<sup>99</sup>

Yet Dwight, like the military hierarchy of which he was a part, remained convinced that emancipated African Americans could become useful soldiers only through the strictest military discipline. While they might have certain rights as soldiers, properly dispensed force was “the only notion they know for right, order and obedience.” The guilty officers and the mutineers had both indulged in “power and liberty without law” that resulted in “crimes and license.” He advocated executing the guilty in the presence of the regiment as an object lesson. After that they could again “be trusted entirely” if placed under commanders who would see “the means of discipline alone changed.”<sup>100</sup>

Dwight, like so many Northern officers, misunderstood the reality of the institution of slavery. The enslaved in Louisiana had patiently carved out customary rights for themselves through “political skirmishes”<sup>101</sup> with the master class long before the Yankees arrived. This formative experience of organizing and acting to secure privileges pegged to their bondage prepared them to fend off encroachments on their newfound freedom after emancipation. The freedpeople continued these efforts living under military law while still laboring. Those who donned Union blue carried the struggle into the Army. In both circumstances they looked to rule of law to shield them from unjust

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<sup>99</sup> Dwight to Stone, 28 December 1863, 27 January 1864, Fort Jackson Letters Sent; Dwight to Stone, 14 February 1864 in Charles W. Drew, 76<sup>th</sup> United States Colored Infantry, CMSR; Dwight to C. P. Stone, 4 February 1864, Nathaniel P. Banks Papers, Abraham Lincoln Presidential Library and Museum, Springfield, IL (hereafter Banks Papers, Lincoln Library).

<sup>100</sup> Dwight to Stone, 7 January 1864, Fort Jackson Letters Sent; Dwight to Stone, 4 February 1864, Banks Papers, Lincoln Library; Dwight to Stone, 28 December 1863, Letters and Telegrams Sent.

<sup>101</sup> Hahn, *Nation under Our Feet*, 68.

power and protect their liberty. It was because as soldiers they expected that their rights would be more secure that they engaged in mutiny at all. From this perspective emancipated blacks, like Northern Anglos, used military protest actions to secure their soldier rights. Many of these particular rights were the same even if the deeper motivations were not. Anglo volunteers knew that defending their soldier rights delineated their existing status as citizens. Recently freed blacks in uniform, however, created the first outlines of their citizen status with their “political skirmishes” against unjust pay, abusive discipline, and racist treatment.

Like their fellow plantation laborers, freedmen-soldiers experienced law’s coercive power more immediately than its liberating potential. Within days of the mutiny’s conclusion General Banks ordered a preliminary inquiry through a military commission. Based on its findings, he convened a general court-martial at Fort Jackson to try Benedict. A second general court-martial tried thirteen enlisted men with whom officers had personal confrontations during the mutiny or considered its ringleaders. Brought to trial under the seventh and eighth Articles of War, the mutineers faced “death, or such other punishment as by a court-martial shall be inflicted.”<sup>102</sup>

The judgment and sentences rendered by the court are a complex mix of clemency and severity. Although possessing authority to sentence all the mutineers to death it assessed only two capital sentences. It followed Army practice and handed down sentences of hard labor—the most common form of punishment—to the remaining defendants. At the same time, Benedict received the maximum sentence for his offense

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<sup>102</sup> Special Orders, No. 309, Department of the Gulf, 11 December 1863, *OR*, 459; Articles seven and eight, *Revised United States Army Regulations*, 486.

and suffered dishonorable discharge. Nevertheless, the court's merciful hard labor sentences were no easy yoke to bear. The average sentence for the Fort Jackson mutineers was eight years. No man received a term less than a year. Three earned terms of ten years or more, including Private Julius Boudro who lost all his pay and faced twenty years at hard labor. Over the whole war only 23 percent of soldiers who received hard labor had terms longer than two years and only 13 percent had terms of five years or more. In 1863, a slight majority of soldiers sentenced to hard labor faced a term of three months or less. These lengthy terms were combined with confinement at the Army's prison at Fort Jefferson in the Dry Tortugas for six of them. Four of these also lost all their pay.<sup>103</sup>

Alongside the difficult sentences for the men found guilty were the acquittals of four soldiers and General Banks's disapproval of one conviction for "conflicting and unsatisfactory" evidence. Scholarship would suggest this is evidence that the defendants received procedural due process at the general court-martial. They likely exercised their soldier rights to provide testimony in their own defense and, if enough officers were to be had, benefit from defense counsel. Access to counsel would have furthered enlarged their trial rights through questioning and cross-examination of witnesses and the submission of physical evidence.<sup>104</sup>

Banks not only dismissed one guilty verdict, he also suspended the capital sentences of privates Frank Williams and Abraham Victoria, leaving them confined indefinitely. In

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<sup>103</sup> General Orders, No. 90, Department of the Gulf, 30 December 1863, *OR*, 476-79; Ramold, 329, 331.

<sup>104</sup> Christian G. Samito, "The Intersection Between Military Justice and Equal Rights: Mutinies, Courts-Martial, and Black Civil War Soldiers," *Civil War History* 53 (June 2007): 170-203; Department of the Gulf, General Orders No. 90, 30 December 1863, *OR*, 479.

contrast, Lieutenant Colonel Benedict received no clemency from the commanding general. Convinced that Benedict's behavior was condemned "by the considerations of humanity, the articles of war, the orders of this Department, and the honor of a gentleman,"<sup>105</sup> Banks approved his sentence under the ninety-ninth Article's broad prohibition against conduct "to the prejudice of good order and military discipline."<sup>106</sup> Banks's handling of the sentences in the Fort Jackson affair fit with that of department commanders during the war who approved general court-martial sentences "as issued" nearly 80 percent of the time. Nevertheless, the eight guilty soldiers began their time at Fort Jefferson facing unusually long terms. They did not receive clemency until special orders from Washington and the Department of the Gulf remitted the remaining portions of their sentences in 1866. Yet such treatment meant dishonorable discharges and the loss of any pay while confined. This left them destitute when they entered the new world of the postwar South and probably forced them to accept the meagre terms for agricultural labor on the Louisiana sugar plantations.<sup>107</sup>

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<sup>105</sup> Article ninety-nine, *Revised United States Army Regulations*, 501; Department of the Gulf, General Orders No. 90, 30 December 1863, *OR*, 476-79; Ramold, *Baring the Iron Hand*, 331-32; Banks to Dwight, 16 December 1863, Nathaniel P. Banks Letterpress Copybook, 1 August 1863-18 February 1864, SCC 2326, Louisiana and Lower Mississippi Valley Collections, Special Collections, Hill Memorial Library, Louisiana State University, Baton Rouge, LA (hereafter Banks Copybook, Hill Memorial Library); Banks to Halleck, 17 December 1863, *OR*, 457.

<sup>106</sup> Article ninety-nine, *Revised United States Army Regulations*, 501; Department of the Gulf, General Orders No. 90, 30 December 1863, *OR*, 476-79. Comprising only nine percent of all charges brought before general courts-martial, convictions ran at nearly ninety percent compared to the overall conviction rate of eighty-three percent, Ramold, 331-32.

<sup>107</sup> Eighty-ninth Article of War, *Revised United States Army Regulations*, 499. Almost universally, dissenting remarks chided courts for lenience, Ramold, 334, and as department commander Banks could not "pardon or mitigate" a sentence of capital punishment. Suspending allowed the President to review it. Adjutant General's Office, War Department, Special Orders No. 181, 20 April 1866 in Julius Boudro, 76<sup>th</sup> United States Colored Infantry, CMSR.



General Banks also needed to limit the mutiny's political repercussions on his clout within the Union command structure.<sup>108</sup> It was "of incalculable injury to the service" and would "disturb the whole country,"<sup>109</sup> but it must not "impair the confidence of the Government in the efficiency and reliability of black troops." To these ends, he carefully shielded himself from blame for the mutiny and patronizingly shifted it to the soldiers. He saw his mote of clemency justified by the freedmen's failure to "comprehend...the duties of citizens which are readily understood and accepted by white men."<sup>110</sup> What Banks judged as ignorance, the emancipated African Americans considered to be their proper interpretation of the soldier rights offered by the Army, especially its consequent promises about treatment and pay.

Ambiguity about the legal status of the freedpeople's citizenship persisted nearly eighteen months after the Militia Act had freed slaves in the service of the Union Army. An Eighth Amendment protection served as the grounds to cashier Benedict. This validated the men's understanding that military law provided the citizen a standing to justify their protest that the Army apply to black soldiers the fullness of the rule of law. But did ordinary law yet extend to them? The prohibition of flogging had been an act of Congress, passed to revise the Army's fundamental law. Emancipated blacks' roles as soldiers gave them a strange status. The establishment of their civil rights broadly

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<sup>108</sup> See Thomas J. Goss, *The War within the Union High Command: Politics and Generalship during the Civil War* (Lawrence: University Press of Kansas, 2003), 136-37; T. Harry Williams, *Lincoln and His Generals*, (New York: Vintage, 2011), 228-9; Donald Stoker, *The Grand Design: Strategy and the U. S. Civil War* (New York: Oxford University Press, 2010), 245-6.

<sup>109</sup> Banks to Dwight, 16 December 1863, Banks Copybook, Hill Memorial Library

<sup>110</sup> Banks to Halleck, 17 December 1863, *OR*, 457-8.

defined seemed assured, but possibly bereft of the many specific protections enshrined in ordinary law which allowed those rights to flourish in civil society.

In many ways the outcome of this mutiny in a small corner of the Civil War presaged the sad history of Reconstruction and Jim Crow. The three famous amendments to the Constitution are rightly considered major achievements. For many white Americans at the time these seemed to be enough and a host of equally pressing concerns increasingly consumed their postwar attention. As a result, the promise of the amendments receded without the creation of ordinary law beyond the Civil Rights Acts of 1866 and 1875. The acts themselves suffered from inadequate Federal enforcement. And in this the mutiny is also instructive. The Army's promise of equal treatment had foundered on shortcomings blacks experienced in command and pay, treatment owing to the same culture of Northern racism that eventually inhibited enforcement of Reconstruction's gains and opted instead for accommodation with the forces of Southern redemption.<sup>111</sup>

### ***Conclusion***

As the Civil War continued, the part played by African American soldiers gained increasingly salience. By war's end there were 140, 313 blacks under arms amounting to some 10 percent of the Union Army.<sup>112</sup> These men gained gradual confidence that military service could not only secure rights for them within the Army but be a path to full citizenship. While Northern free blacks drew on a tradition of political protest

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<sup>111</sup> Philip Shaw Paludan, *A People's Contest: The Union and the Civil War, 1861-1865* 2<sup>nd</sup> ed. (Lawrence: University Press of Kansas, 1996, orig. 1988), 392; Nina Silber, "Emancipation without Slavery" in Cooper and McCardell, eds., *In the Cause of Liberty*, 106-07; Gallagher, 152-53.

<sup>112</sup> Hahn, *A Nation under Feet*, 92.

developed within antebellum public culture, emancipated slaves continued to rely on the formula outlined by the Fort Jackson mutiny. Taking this incident as a starting point, three additional episodes of freedmen-soldiers' military protest analyzed in the following chapter will provide additional nuance to the dynamic of slaves' politics and soldier rights as well as the increasing sophistication of their military protests over the course of the war.

Customary, reciprocal expectations established by countless political skirmishes with masters led the newly free to undertake a similar effort in the shadow of military law, whether as plantation hands or soldiers. Newly freed blacks spoke out when they sensed threats to the modicums of personal autonomy they had carved out during bondage. Emancipated blacks in uniform recoiled in protest when they recognized aspects of Army life that compromised an emerging definition of their soldier rights. This definition synthesized the customary relations worked out during bondage with the rule of law promulgated through the Articles of War and the Army regulations. When the freedmen of the 4<sup>th</sup> Infantry took to the parade ground, they opposed not only a horrific method of slave correction, but the violation of a specific, legal protection due them as soldiers. In this respect, the dissenters of Fort Jackson were both wary of the Army's power over them and at the same time eager to claim their new rights within it.

Anglos practiced self-government within their voluntary associations as members who could craft their own constitutions and by-laws. Emancipated slaves, however, were on the cusp of an entirely new membership as citizens within the nation, but with no formal tradition of self-government. Only through their culture of confrontation with the

master class had they enjoyed even the most customary rights. This had prepared them for the greatly expanded horizon of consent when they escaped from the peculiar institution. One of the most immediately accessible demonstrations of self-government was selecting membership in the Army in order to destroy slavery. Participating in that institution founded on the rule of law provided avenues to turn the employment of resistance toward “influencing American politics” and expanding the definition of citizenship in the United States. By laying claim to their soldier rights in military protest actions they exercised self-government as members of the Army.

When officers perpetrated abuse, ignored military law, or discounted their men’s frustrations they transgressed the emancipated blacks’ soldier rights just as much as if they were Anglos. Exploitation and the abuse of authority grew. In response, soldiers tested the official channels of redress or relied on techniques of resistance and accommodation learned in slavery. Collective dissent erupted when justice through either channel remained frustrated. These “hard fought political controversies” (to borrow historian Christian Fritz’s characterization of self-government) in turn built upon the enslaved’s experiences in questioning the master’s authority. Freedmen-soldier dissent offers scholars concrete examples of wartime emancipation that unites studies privileging blacks’ efforts to free themselves with those emphasizing the extension of freedom by the federal government. Military protests such as the Fort Jackson mutiny and those discussed in following are come were alternate channels toward protecting and defining the soldier rights attached to their membership in the Army. In the process, emancipated black soldiers created a unique expression of American self-government.

Soldiering and its associated rights was a critical waystation on the road to full membership and sovereignty within American society for emancipated African Americans. It represented the first time in their lives that their privileges and protections did not depend on the caprice of the master, but had the force of law. And from the first moment, emancipated slaves began to shift from resisters into legislators by defining the scope and meaning of military law's application to them. The men of Fort Jackson won an important victory in forcing the Army to expel in shame an abusive commanding officer, not a mere junior subordinate. Still, the mutiny's leaders paid a heavy price and spent months in grueling imprisonment; for claiming their soldier rights to timely and equal pay, to responsible commanders, and to authority and discipline that conformed with the law.

What drove these men to revolt was never the simple fact of physical abuse—it was only the proximate cause of the mutiny. The institutions, cultural practices, and social conventions of slave societies had long reinforced blacks' subordination and made physical abuse routine, but slavery's destruction offered new possibilities. As soldiers, they could even claim to be the eradicators of their own bondage and the makers of their own freedom. Membership in the Army made the possibility they could exist on the same plane as the white man believable. The experience of freedom outlined thus far for plantation laborers and black soldiers in Louisiana was a cautionary tale. Nevertheless, two paths seemed clear. Either the black man was a contraband piece of property to be used selfishly by a new master or he was an autonomous individual capable of exercising and enjoying the rights of a citizen. When lived as a seamless reality, flogging

and unequal pay trampled on the privileges owed to them as laborers and the rights due them as soldiers. In this way the mutiny became an act of political protest that grew out of bondage and pointed the way forward to citizenship.

CHAPTER VI  
“WILLING TO DO ALL I CAN FOR YOU AS A SOLDIER”:  
THE LIMITATIONS AND POSSIBILITIES OF SOLDIER RIGHTS  
FOR EMANCIPATED SLAVES IN UNIFORM

“No human power can subdue this rebellion without using the Emancipation lever as I have done,” professed President Abraham Lincoln on 19 August 1864. “Freedom has given us the control of 200,000 able bodied men,” he argued, “born and raised on southern soil. It will give us more yet.”<sup>1</sup> The Fort Jackson mutiny runs as a counter-narrative, however, to Lincoln’s idea of “control.” It demonstrated that emancipated slave soldiers recognized the implications of their new membership in the Union Army. The legal rights provided them in military law sanctioned a military protest against unjust discipline that was also rooted in the tradition of slaves’ confrontations with their masters over customary rights and duties. At Fort Jackson, mutiny became a way station on the path towards the consent and self-government belonging to citizens of the Republic.

Joining the Union Army became one of the first ways emancipated African Americans participated in the republican experiment of self-government. Emancipation’s power as a lever for victory through freedmen’s military service also gave the war aim of Union increasing salience in their own cause of citizenship. They defended self-government against rebellion, but also against the abuse of power within the Army. Its

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<sup>1</sup> Roy P. Basler, ed., *The Collected Works of Abraham Lincoln* (New Brunswick, NJ: Rutgers University Press, 1955), 7: 506-508. These were Lincoln’s remarks to Governor of Wisconsin Alexander Randall and Judge Joseph T. Mills during a White House visit.

regulations and Articles of War provided freedmen-soldiers with legal, constitutional, and ideological justifications under the rule of law to elevate the resistance of slaves into the political dissent of citizens.

The military protest actions by emancipated slaves in uniform against unauthorized treatment was the seedbed of a larger revolution that eventually extended citizenship to some four million freedpeople. The examples below serve as additional “vignettes of contestation”<sup>2</sup> that link a heritage of slave resistance with freedmen’s possession of soldier rights as members of the Union Army. The events demonstrate specific actions that the formerly enslaved took to move themselves from emancipation into citizenship during the era of the Civil War.

In this chapter, three episodes of soldier dissent by emancipated blacks further illuminate the dynamic interaction of slave culture, soldier status, and military law analyzed in the previous chapter on the Fort Jackson mutiny. In May 1864 a mutiny in the 33<sup>rd</sup> U. S. Colored Infantry Regiment (USCI) against ill treatment occurred as part of the unfolding political story of military emancipation within another specific subculture of slavery, that of South Carolina’s Sea Islands task system. A mutiny in the 49<sup>th</sup> USCI in June 1864 led emancipated slaves in uniform to exercise the civic right of petition in order to resist the logic of an Army inspection regime that clashed with attitudes learned in the slave quarters. Finally, the strange contours of Kentucky Unionism positioned freedmen-soldiers in the 119<sup>th</sup> USCI to assist in the acquittal of an immigrant, abolitionist officer on trial in July 1865.

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<sup>2</sup> This potent term comes from Tera W. Hunter, *To 'Joy My Freedom: Southern Black Women's Lives and Labors after the Civil War* (Cambridge: Harvard University Press, 1997), 5.



Coming from across the South, freedmen-soldiers challenged unjust treatment with increasing sophistication. Taking such action, they gained confidence that military justice could be leveraged to secure their soldier rights by employing the tactics learned in the complex process of accommodation to slavery. At the same time, newly freed blacks quickly recognized the sometimes great gulf between their new, regimented lives as soldiers and the personal autonomy carved out within the circumscribed boundaries of bondage.

The experience of slave resistance remained a source of vitality and inspiration for defining the rights that flowed from their status as soldiers rather than as members of the master's fictive household, even when it did not yield lasting victories against the prejudice and inequality the men faced from the beginning of their military service. Within these rather limited horizons, however, emancipated slaves in uniform made it clear that they served in the war for the Union and racial freedom only by their consent. Furthermore, their service made it clear that Union was the vehicle for achieving permanent membership as citizens of the nation. Mutinies laid the groundwork for freedmen-soldiers' exercise of self-government from emancipation's initiation even though it did not immediately transform the existing boundaries of American citizenship.

***"I Was Better Treated When with the Rebels": Edmund's Brown's Protest in the 33<sup>rd</sup> U. S. Colored Infantry***

On the morning of 16 May 1864, Second Lieutenant Asa Child, Company H, 33<sup>rd</sup> USCI, inspected the picket detachment at Port Royal, South Carolina as officer of the guard. This was the brigade's advance guard deployed several miles in front of Union lines to give first warning of any movement by Confederate forces. Picket duty called for

vigilance and preparedness. Officers deemed proper equipment and functioning weapons essential. Lieutenant Child's positive report endorsed their discipline and conduct as proper soldiers. During the afternoon inspection, however, Sergeant Daniel Williams, also of Company H, chastised Private Edmund Brown for failing to maintain his rifle.<sup>3</sup> Williams put Brown on "knapsack drill" and ordered it performed outside the tent of their company commander, Captain W. W. Sampson, to drive home the point.<sup>4</sup>

The nineteen-year-old did not cooperate. "'I'll be d\_\_\_\_\_d if I'll wear it for you or any one else.'" He escaped the knapsack, but earned a night in the guard house from his captain. Sampson released him the next day and ordered the officer of the day, Second Lieutenant Mirand W. Saxton, to complete the punishment. Brown maintained his innocence and questioned the lieutenant's authority: "'G\_d d\_\_\_n you! What right have you to interfere?'" while brandishing a stick and threatening anyone else who tried to make him comply. At this act of disobedience, Lieutenant Saxton ordered Brown bound and gagged.<sup>5</sup>

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<sup>3</sup> Charges and specifications, testimony of Private August Brown, and testimony of Sergeant Jacob Jones in the general court-martial of Private Edmund Brown, NN2927, Court-Martial Case Files, RG 153 Records of the Judge Advocate, National Archives, Washington, D.C. (hereafter Edmund Brown court-martial).

<sup>4</sup> Charges and specifications, testimony of Lieutenant Asa Child, Edmund Brown court-martial; August V. Kautz, *Customs of Service for Non-Commissioned Officers and Soldiers as Derived From Law and Regulations and Practiced in the Army of the United States* (Philadelphia: Lippincott, 1864), 19-20.

<sup>5</sup> Edmund Brown, 33<sup>rd</sup> United States Colored Infantry, Union Compiled Military Service Records, RG 94 Records of the Adjutant General's Office, 1762 - 1984, National Archives, Washington, D.C. (hereafter cited as CMSR). As in the case of William Gallagher of the 93<sup>rd</sup> New York discussed in Chapter III, Edmund Brown challenged the authority of an officer outside his company. In this case, Saxton came from Company A, charges and specifications, testimony of Sergeant Jacob Jones, Edmund Brown court-martial.

Brown believed he done his duty. His weapon had been inspected and found in good order. How could a sergeant find him at fault after the lieutenant certified his rifle was clean? The contradiction was redolent of slaves' difficulties with black plantation drivers who sometimes identified with the master, eager to promote their own station over and against the slave community. Brown's initial complaints against unjustified punishment quickly evolved into condemnations that the regiment's officers—Northerners all—betrayed the freedmen's best interest and their nascent personal independence: “All they came down here for was to humbug us.”<sup>6</sup>

Officers throughout the Union Army used such camp punishments to imprint on the minds of their men habits of order, efficiency, and discipline. As shown above among Anglo soldiers, camp punishments exerted humiliation and shame. If camp punishment represented Regular Army tyranny to Anglo citizen-soldiers, for the formerly enslaved in uniform they felt like a return to bondage; like freedom forfeited. The gamut of sanctions soldiers endured included “striking with swords, whipping, tying up by the thumbs, and bucking and gagging.” All “could border on sadism.” Historians emphasize that freedmen-soldiers despised these “slave modes of correction.” Black soldiers tried in various ways to define their rights as members of the Army by continuing to employ forms of confrontation practiced in bondage. In freedom, however, these means of resistance became steps toward citizen dissent. Complaints up the chain of command

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<sup>6</sup> Charges and specifications in Edmund Brown court-martial; testimony of Major William E. Nye, 4<sup>th</sup> Regiment, Corps d’Afrique, to a military commission, 13 December 1863, *War of the Rebellion: The Official Records of the Union and Confederate Armies*, 128 vols. (Washington, D.C.: Government Printing Office, 1880–1901), ser. 1, vol. 26, 1:464–65 (hereafter cited as *OR*). Brown’s charge echoed that of the men at Fort Jackson who, out of a sense of betrayal and unbridgeable difference, labeled their commanders “Yankees,” see Chapter V.

about unequal treatment seemed too often to fall on deaf ears. This might lead to frustration, then intensified protest, and finally mutiny. The authorities might silence such dissent for a period of time through imprisonment and even death. The freedmen-soldiers examined in this chapter practiced some, if not all, parts of this strategy.<sup>7</sup>

The close relationship between traditions of confrontation and military protest resulted from the brief distance in time between erstwhile bondage and membership in the Union Army following emancipation. In the case of Edmund Brown it began with the tortuous creation of the 33<sup>rd</sup> USCI. The Union Army occupied the South Carolina Sea Islands after capturing the deep-water harbor at Port Royal on 7 November 1861. Rebel plantation owners fled and tried to take their bondspeople with them. Presaging Louisiana in 1862, most Sea Islands slaves ran to Union lines where they became some of the first “contraband of war”—neither slave nor free. Sheltering near Union camps, they worked as servants and laborers while Christian missionaries, both Northern whites and free blacks, arrived to offer them the rudiments of an education.<sup>8</sup>

The requirements of war, however, took precedence over such humanitarian concerns. Major General David Hunter, commander of the Department of the South, explicitly tied together emancipation and military service when he proclaimed martial law and, without official sanction, proclaimed all slaves in Florida, South Carolina, and Georgia free on 9 May 1862. A draft soon followed embracing all African American

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<sup>7</sup> Ira Berlin, et al., eds., *Freedom: a Documentary History of Emancipation, 1861-1867*, Series II, *The Black Military Experience* (New York: Cambridge University Press, 1982), 438.

<sup>8</sup> Willie Lee Rose, *Rehearsal for Reconstruction: The Port Royal Experiment* (New York: Oxford University Press, 1964), 229-35; Edward Scott to George Whipple, Parris Island, SC, July 22, 1864, American Missionary Association Archives, Amistad Research Center, Tulane University, New Orleans, LA.

males on the Sea Islands between eighteen and forty-five soon followed. It produced a regiment he designated the 1<sup>st</sup> South Carolina Colored Volunteers. Officers to command it proved scarce owing to existing prejudice and the escapees did everything they could to avoid enlistment, many fearing conscription was simply a ruse to sell them back into slavery on the Spanish island of Cuba. Careful not to offend a so far latent southern Unionism or lukewarm Northern Democrats, Lincoln countermanded Hunter's decrees on 20 May 1862. The damage to African Americans' trust in the Yankees done by conscription and the separation of families that came with it dissipated only slowly.<sup>9</sup>

Furthermore, official confusion put the men wearing blue in legal limbo, without pay to support their kin, and uncertain of the future. Prior to Lincoln's decision Secretary Stanton had already dispatched Brigadier General Rufus Saxton, a staunch Massachusetts abolitionist. Answering directly to the War Department and Hunter, he was to manage the captured Sea Island plantations and the "inhabitants remaining thereon" in order to restart the local cotton economy. As Washington continued to dither in regards to approval or pay of the 1<sup>st</sup> South Carolina through the spring and into the summer of 1862, Hunter released all but a single company.<sup>10</sup>

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<sup>9</sup> Rose, *Rehearsal for Reconstruction*, 144-7; Joseph T. Glatthaar, *Forged in Battle: The Civil War Alliance of Black Soldiers and White Officers* (New York: Free Press, 1990), 6-7; Joseph T. Wilson, *The Black Phalanx: A History of the Negro Soldiers of the United States in the Wars of 1775-1812, 1861-1865* (Hartford, CT: American Publishing Company, 1890), 147-8.

<sup>10</sup> Secretary of War Edwin M. Stanton to Brigadier General Rufus Saxton, commanding Department of the South, 29 April 1862, *War of the Rebellion: The Official Records of the Union and Confederate Armies*, III, II, 27-28; Rose, *Rehearsal for Reconstruction*, 152-54; Berlin, et al., *Freedom*, 38-39; John David Smith, "Let Us All Be Grateful That We Have Colored Troops That Will Fight," in *Black Soldiers in Blue: African American Troops in the Civil War Era*, John David Smith, ed. (Chapel Hill: University of North Carolina Press, 2002), 21-22.

But by August 1862 the government's new commitment to make war on slavery changed the landscape of black freedom in the Sea Islands yet again, this time into a promising seedbed. In language functionally the same as that which empowered Governor John Andrew in January 1863 to raise the 54<sup>th</sup> and 55<sup>th</sup> Massachusetts regiments, Saxton wrung from Stanton authorization to organize 5,000 contrabands as military laborers and an identical number as soldiers. The soldiers would “receive the same pay and rations allowed by law to volunteers in the service.”<sup>11</sup> Freedom, pay, and provisions, as well as protection and shelter for their families, encouraged many previously reluctant black men to volunteer for what by October 1862 carried official designation as the 1<sup>st</sup> South Carolina Volunteers. He selected the prominent Massachusetts abolitionist Thomas Wentworth Higginson as its colonel.

Higginson believed deeply in black enlistment’s ability to effect abolition. He touted the freedmen as paragons of obedient soldiers because of their enslaved past. At the same time, his conviction that courage belonged to the citizen told him their supposedly natural obedience would be insufficient to withstand combat. He and his fellow officers would have to model the manly qualities of self-control, personal independence, and public virtue central to Higginson’s republican sense of citizenship. He created a command structure based in mutual self-respect between officers and men. Together the

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<sup>11</sup> Herman Belz, “Law, Politics, and Race in the Struggle for Equal Pay during the Civil War,” *Civil War History* 22 (September 1976), 198, and while Stanton’s order became a document used by black soldiers and their allies in 1863-64 to establish the government’s standing promise of equal pay, its legal force could not extend beyond the confusing circumstances of black enlistment in the Sea Islands during 1862. Congress paid it little attention during the debates over equal pay during 1864. See also Dudley Taylor Cornish, *The Sable Arm: Negro Troops in the Union Army, 1861-1865*, (New York: Longmans, Green, 1956), 184; Berlin, et al., *Freedom*, 39.

men and their officers became the guarantors of the Articles of War and the Army regulations while guarding against any violations. Higginson's confidence in the officers as mentors of citizenship carried a presumption that blacks graciously welcomed a magnanimous authority but had no preexisting notions about freedom.<sup>12</sup>

Higginson's views about command reflected his class's ideas about authority generally. He and many of the 33<sup>rd</sup> USCI's officers came from the elite class of New England Brahmins: the oldest, best families who had lead its transition through the Market Revolution. The officer directly involved in Edmund Brown's mutiny, Captain William W. Sampson, had family ties to Abington, Massachusetts, with ancestors stretching back to the Pilgrims.<sup>13</sup> He mustered in as a second lieutenant in November 1862, faced combat with the 33<sup>rd</sup> USCI on its Florida Expedition and the capture of Jacksonville in late 1862, then was promoted to captain and gained company command on 30 October 1863. In the months after the court-martial of Edmund Brown, he

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<sup>12</sup> Keith P. Wilson, *Campfires of Freedom: The Camp Life of Black Soldiers During the Civil War* (Kent, Ohio: Kent State University Press, 2002), 21-24; Rose, *Rehearsal for Reconstruction*, 193-94; Reid Mitchell, *The Vacant Chair: The Northern Soldier Leaves Home* (New York: Oxford University Press, 1993), 55-69; Susie Taylor King, *Reminiscences of My Life in Camp with the 33d United States Colored Troops: Late 1st S. C. Volunteers* (Charlestown, MA: Acme Bookbinding, 2003 (self-published, 1902)), 32. Wounds forced Higginson to resign in May 1864 and command passed to Captain Charles. T. Trowbridge. King claimed many soldiers admired Trowbridge and had desired to be in his company for this reason, 46.

<sup>13</sup> Sylvia Sampson, Seventh Census of the United States, 1850, Roll M432-263, Page 12B, Image 30, National Archives Microfilm Publication M432, RG 29 Records of the Bureau of the Census, National Archives, Washington, D.C.; *Vital Records of Abington, Massachusetts to the Year 1850* (Boston: New England Historical Genealogical Society, 1912), 113, 199; Marriage Record of Elisha Sampson and Sylvia Gurney, "Maine Marriage Records, 1705-1922" and Death Record of Elisha Sampson, "Maine Death Records, 1617-1922," both in Pre-1892 Delayed Returns, Roll 87, Maine State Archives, Augusta; Georgia Drew Merrill, ed., *History of Androscoggin County* (Augusta, ME: W. A. Ferguson, 1891), 824, records that his father was twice a selectman for Turner, Maine, where he had settled the family.

assumed numerous capacities with the Department of the South. By all accounts he was a responsible, dedicated officer.<sup>14</sup>

The Brahmin officers in the USCT regiments stationed in the Sea Islands also carried an unequivocal adherence to the Articles of War and the Army regulations. The Regular Army embodied the order, efficiency, and regimentation they trusted. Captain Sampson reacted to Brown's defiance not only as a commissioned officer, but as one who likely found moral and social value in military order. He believed Brown's protests threatened to unravel the regimentation necessary to school the men in citizenship.<sup>15</sup>

A quite opposite view belonged to Brown and his comrades. "I was better treated when with the Rebels than since I've been in his G\_d d\_\_\_\_d company. He [Sampson] punishes us all for nothing." Indignantly, Sampson related that Brown declared he had been "better off with the master than in this damned regiment." They had proved themselves in combat and expected treatment as soldiers who had specific rights and protections under the rule of law established by the Articles of War and the Army

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<sup>14</sup> This Florida Expedition is ably recounted in Stephen V. Ash, *Firebrand of Liberty: The Story of Two Black Regiments that Changed the Course of the Civil War* (New York: W. W. Norton, 2008), 116-87. Captain Wallace W. Sampson CMSR (Maine), Lieutenant Asa Child CMSR (Maine), Lieutenant Mirand Saxton CMSR (Massachusetts), National Archives and Records Administration (NARA); Washington, D.C., Compiled Military Service Records of Volunteer Union Soldiers Who Served with the United States Colored Troops: Infantry Organizations, 31st through 35th, Microfilm Serial: M1992; Rolls 34, 44. Sampson was variously acting assistant adjutant general for the post and district, provost marshal, a recruiting officer, and an acting district inspector general.

<sup>15</sup> In the view of Lorian Foote, "Rich Man's War, Rich Man's Fight: Class, Ideology, and Discipline in the Union Army," *Civil War History* 51, no. 3 (September 2005), 286 (269-287), because "their families had embraced modern values of organization and efficiency before the war" they were "comfortable with hierarchy and assuming they were born to command, they imposed harsh military discipline on their men;" see also Foote, "Rich Man's War," 272-75 and *The Gentlemen and the Roughs: Violence, Honor, and Manhood in the Union Army* (New York: New York University Press, 2010), 122-29; George M. Fredrickson, *The Inner Civil War: Northern Intellectuals and the Crisis of the Union* (New York: Harper & Row, 1965), 155-56; Sampson testimony in Edmund Brown court-martial.



regulations. The status of soldier and membership in the Army should have ensured them against the arbitrary judgement about the rifle and the capricious punishment which followed. In bondage Brown might have found a way to confront this injustice or at least retaliate at a later date through indirect resistance like work slowdowns or the destruction of tools.<sup>16</sup>

Brown's confidence that he should initiate a confrontation also reflects the methods of resistance peculiar to the Sea Islands, especially as a consequence of the task system. Even after 1865, its blacks maintained their distinct identity and way of life that included the Gullah dialect. The patterns of labor established there had also meant a greater separation between the enslaved and the master class usually absent during the malarial summers. The production of long-staple cotton under the task system allowed an ambitious, diligent bondsperson to finish the assigned tasks for the day in four or five hours and turn to tending a personal plot, minding a small number of hogs and chickens, and even hiring out on occasion.<sup>17</sup> Enslaved women had the possibility to sell their produce and keep the profit. In fact, some Sea Island slaves were able to amass quite impressive kinds of personal property including horses. Any provisions they produced

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<sup>16</sup> Rose, *Rehearsal for Reconstruction*, 244-45; Ramold, *Baring the Iron Hand*, 359; Sampson testimony in Edmund Brown court-martial.

<sup>17</sup> See Lawrence W. Levine, *Black Culture and Black Consciousness: Afro-American Folk Thought from Slavery to Freedom*, 30th Anniversary Edition (New York: Oxford University Press, 2007), 145-51; Rose, *Rehearsal for Reconstruction*, 96-7; Peter Kolchin, *American Slavery, 1619-1877*, rev. ed. (New York, Hill & Wang, 2003), 48, 75. The 1714 Stono Revolt in South Carolina, nevertheless, is a historical artifact of their propensity to actively oppose the master's will. It had arisen among slaves at that time that were certainly better classed as African than African American, Mark M. Smith, "Remembering Mary, Shaping Revolt: Reconsidering the Stono Rebellion" *Journal of Southern History* 67, no. 3 (August 2001), 513-534 (518); Harvey Wish, "American Slave Insurrections Before 1861," *Journal of Negro History* 22, no. 3 (July 1937), 299-320.

on their own time counted in addition to those provided by the master, not as a substitute. Historians have shown that moveable property ownership was fairly widespread though customary and small-scale among slaves across the South. While claims to ownership necessarily needed the acquiescence of individual masters, on another level they depended on the witness of neighbors. These kinship and quarters' based validations of property ownership among enslaved people strengthened community ties.<sup>18</sup>

Even though the task system lent a particular structure to power relations within Sea Island slavery, certain customary rights that arose there paralleled those established within the sugar parishes of Louisiana. The "slave's 'time' became sacrosanct,"<sup>19</sup> even an "expectation" in return for completing their assigned labor.<sup>20</sup> Certain tasks like hoeing or threshing, however, were harder than others. In a constant "war" with their overseers, the enslaved "hammered out" the limits of "a fair day's work."<sup>21</sup> Even while in bondage, Sea Island blacks had a custom of bringing complaints about particularly onerous work schedules or capricious overseers to their masters. The task system's advantages in time,

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<sup>18</sup> Guion Griffis Johnson, *A Social History of the Sea Islands* (New York: Negro Universities Press, 1969, reprint of 1930 edition by University of North Carolina Press), 82-85, 124, 140-41; Kolchin, *American Slavery*, 31-32; Phillip D. Morgan, "Work and Culture: The Task System and the World of Lowcountry Blacks, 1700 to 1880," *William and Mary Quarterly*, Third Series 39, no. 4 (1982), 581, 586 (564-99). Dylan C. Penningroth, "My People, My People: The Dynamics of Community in Southern Slavery" in Edward E. Baptist and Stephanie M. H. Camp, eds., *New Studies in the History of American Slavery* (Athens: University of Georgia Press, 2006), 170. Nevertheless this wealth was never prodigious or widespread and the enslaved "ran the risk of losing everything in a moment of masterly whim," Steven Hahn, *A Nation under Our Feet: Black Political Struggles in the Rural South from Slavery to the Great Migration* (Cambridge: Harvard University Press, 2003), 37.

<sup>19</sup> Morgan, "Work and Culture," 579.

<sup>20</sup> Theodore Rosengarten, *Tombee: Portrait of a Cotton Planter with the Journal of Thomas B. Chaplin, 1822-1890* (New York: William Morrow, 1992), 80.

<sup>21</sup> Morgan, "Work and Culture," 576-8.

provisions, money, and property meant that freedpeople continued it whenever possible after emancipation.<sup>22</sup>

Given the pliant labor system from which they came, Sea Island freedmen-soldiers experienced a rude awakening. The bugle call ordered their days on a rigid schedule filled with recurrent drill, fatigue, and inspection. Between these activities they ate spartan rations of hardtack, salt pork, and coffee. Time evaporated to supplement their rations or their pay. Much as it had for the men at Fort Jackson accustomed to their wages for overwork and holiday distributions, these frustrations came on top of the inequity of their pay from the Army and disrespect from certain officers.

The form of bondage from which they emerged was instructive about what their soldier rights should mean. Bringing complaints against their overseers found equivalence in their rights under the Articles of War to petition their company or regimental commanders against abusive treatment. Beliefs about the proper balance between labor and personal privileges constituting a fair day's work informed their opinions of the treatment and pay they deserved for military obedience. Subject to strict schedules and sometimes capricious camp judgments from their officers soldiers found the grounds for protest against the disappearance of the sorts of circumscribed self-direction they may have enjoyed "while with the Rebels."

When coupled with his recent humiliation, the social and cultural context of Sea Islands slavery prompted Brown to warn that "the company can't stand it long." Sergeant Hamilton joined him to contend that "there was advantage taken of the company and

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<sup>22</sup> Morgan, "Work and Culture," 584.

something should be done about it.” Indeed, historians’ assessments arguing that homesickness and nostalgia among Union soldiers could lead to deep bouts of depression and despair helps to explain why Brown went so far as to threaten he would “shoot and kill” Captain Sampson and Lieutenant Saxton if his comrades failed to act.<sup>23</sup> In these respects then, Brown’s protest of unwarranted punishment provides a “vignette of contestation” to analyze the transition of an African American male from slavery to freedom. It reveals the underlying tensions within a black regiment, commanded by prejudiced officers.

At Brown’s general court-martial, which opened 27 August 1864, the judge advocate, Captain William D. Crane, and three other USCT officers composed the seven member court. Brown faced charges of attempted assault, intention to foment a mutiny, and the personal threat against Lieutenant Saxton. To each charge he pled not guilty. During the trial the freedmen-soldier cross-examined black and white witnesses, including his company commander, Captain Sampson, hoping to cast doubt on the justness of the punishment and their claims about what he said. He closed the trial with a simple statement that he neither threatened the two officers nor intended to desert.<sup>24</sup> The court found insufficient evidence to rule Brown guilty. In his mandatory review of the case the department commander recorded that Brown committed every crime charged

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<sup>23</sup> Charges and specifications, Child testimony in Edmund Brown court-martial. Surgeon Henry Penniman of the 1<sup>st</sup> Mississippi Heavy Artillery African Descent diagnosed blacks as “greater sufferers both in frequency of cases and mortality from homesickness than whites.” See also the case of Joshua Helm in the 116<sup>th</sup> United States Colored Troops, both discussed in David Anderson, “Dying of Nostalgia: Homesickness in the Union Army during the Civil War,” *Civil War History* 56, no. 3 (September 2010), 261. Although Anderson admits it “difficult to come to any satisfactory conclusions” about Penniman’s claim, he saw fit to include these examples nonetheless.

<sup>24</sup> Charges and specifications in Edmund Brown court-martial;

except inciting a mutiny. That single charge could have obtained the death penalty, but the court showed restraint and also ruled out capital punishment despite finding him guilty of violence against a superior officer. Like penalties imposed at Fort Jackson, Brown's earned the harsh sentence of hard labor for two years wearing a twelve-pound ball at Fort Marion in St. Augustine, Florida, and loss of \$10 of his monthly pay during that time.<sup>25</sup>

Courts-martial in the Union Army dispensed a brand of justice to black soldiers that, while satisfying procedure, resulted in harsh sentences. Blacks availed themselves of equal access to and protection of the rights afforded within courts-martial, but as covered in Chapter V they faced longer imprisonments and a higher percentage of executions. Proceedings also show white officers' convictions that black soldiers as a group needed to be chastised by having examples made of their comrades. Although the previous chapter demonstrated how these sentences deviated from the widespread application of justice within the Army, a local example from the Department of the South makes the point even better.

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<sup>25</sup> Charges, specifications, findings, sentence, review, and General Orders No. 161, Department of the South, 25 November 1864, all in Edmund Brown court-martial. The court found Brown guilty of the charge of disobedience of orders and all the specifications; guilty of threatening violence against a superior officer, but not its single specification (guilty on department commander's review); guilty of the specifications and charge of disrespect to a superior officer; guilty of threatening to desert; and guilty of threatening to murder Sampson but not Saxton (but guilty on department commander's review). He also was found guilty of claiming, though not in the presence of the men, that the company was close to mutiny. This allowed the court to find him not guilty of the charge that he intended to incite a mutiny. Articles seven and nine, *Revised United States Army Regulations of 1861, with an Appendix Containing the Changed Laws Affecting Army Regulations and Articles of War to June 25, 1863* (Washington, D.C.: U.S. War Department, Government Printing Office, 1863), 486. Christian G. Samito, "The Intersection Between Military Justice and Equal Rights: Mutinies, Courts-Martial, and Black Civil War Soldiers," *Civil War History* 53, no. 2 (June 2007), 174, regarding black defendants notes, "in many cases, authorities consciously tried to avoid imposition of the death penalty even where the Articles of War called for it."

The same court that convicted Brown considered the case of Corporal Henry Johnston, an Anglo in the 54<sup>th</sup> New York Infantry. Johnston was charged with mutinous conduct for threatening to desert, boasting he would never fire his rifle against an enemy soldier, and routinely not loading his rifle with a lethal round. These remarks made his actions not only mutinous, but also traitorous. Yet he was acquitted, largely because he was able to produce witnesses on his own behalf who effectively undermined the prosecution's case.<sup>26</sup> In Edmund Brown's case he produced one witness in his defense, Private August Brown, who made the court aware that Lieutenant Child had earlier approved Brown's rifle and August also testified he was not present when Edmund made his mutinous statements. While the testimony likely saved the defendant's life by negating the charge of inciting a mutiny, it also could have been used to show that Edmund Brown had a legitimate grievance with the camp punishments. Despite this conflicting evidence, the court decided to convict. These were military officers, however, charged with forcing a race of men unfamiliar to them to obey their orders. Along with feelings of natural superiority, circumstances made considerations of military order weigh more than the protean liberties of freedmen-soldiers.

The Fort Jackson mutiny had erupted from a clash of expectations about compensation and punishment. Edmund Brown's case illuminates similar unspoken assumptions that black soldiers from the Sea Islands brought to their military service. These men were accustomed to levels of personal autonomy that could rival a Northern

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<sup>26</sup> Charges, specifications, and proceedings in the general court-martial of Corporal Henry Johnston, 54<sup>th</sup> New York Infantry, 21 September 1864, NN2927, Court-Martial Case Files, RG 153 Records of the Judge Advocate, National Archives, Washington, D.C.

factory worker whose clock-controlled day was much closer to the regime of bugle calls ordering military life. Securing those boundaries had required the slave's constant struggle with the master. Slaves brought similar approaches to protecting themselves from the worst parts of military life. The unspoken class assumptions of Northern white officers had a major bearing on race relations in this episode. An affinity for stern discipline by the officers escalated a situation produced by the self-assurance of a freedmen-soldier that he had adhered to the regulations regarding picket duty. Although the Articles of War and the regulations provided new levels of *legal* protection against capricious treatment, freed black soldiers nevertheless contended with chains of command whose interpretation of military law could at times be as arbitrary and highly personal as the plantation system they left. That is to say, if he had the influence, the position, and the inclination to do so, a single officer could make a soldier's life unbearable. This arbitrary type of authority helps to explain why African-American military protest actions so often erupted over a single individual's actions that they deemed to be unjust. In this sense, then, freedmen-soldiers served in an Army whose demanding modes of discipline did as much to squelch their newly realized sense of freedom as to foster it.

Nevertheless, freedmen-soldiers became members of an Army that promised *statutory articulation of their rights*. Once in possession of that membership, a much clearer path opened towards eventually securing the full panoply of rights inhering to citizens. Dissent by emancipated slave-soldiers replayed the familiar moves of accommodation and confrontation within a new institution. In the Civil War, however,

these moves did not simply shield blacks from exploitation. They also became occasions for emancipated African Americans to practice citizenship and gain increasing sophistication in its performance. The challenges endemic to this path notwithstanding, Army life and law provided an important field upon which newly free African Americans could practice a “politics of freepeople.”<sup>27</sup>

***“Until We Can Have the Promise of Better Treatment”: Privacy and Petition in a Mutiny of the 49th United States Colored Infantry***

Sergeant Giles Sims sat confined with some two dozen comrades on the muggy night of 13 June 1864, but promised them no “white man” would keep him there come morning. He had landed in close arrest because of his role earlier that day as the central character in a mutiny at Vicksburg, Mississippi; a military protest action that put the freedman-soldier in danger of losing his life.<sup>28</sup>

Scene of arguably the war's single most significant campaign and certainly its most important siege, Vicksburg, in 1864 housed a population of Union troops and attendant civilian laborers bigger than its native population. No longer the “Gibraltar of the Confederacy,” it had become a “garrisoned town” that projected Union influence over the surrounding area through patrols, foraging expeditions, and sweeps by provost marshals. The immediately surrounding countryside was a “no-man's land” subject to Confederate raids but within Union forces’ gravitational pull. Further afield loomed the “Confederate frontier” where Union forces only ventured on raids or counter-insurgency

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<sup>27</sup> Hahn, *A Nation under Our Feet*, 33.

<sup>28</sup> Charges and specifications, testimony of 1st Lieutenant P. Marshal Mills in the general court-martial of Sergeant Giles Sims, et al., LL2492, Court-Martial Case Files, RG 153 Records of the Judge Advocate, National Archives, Washington, D.C. (hereafter Giles Sims court-martial).



forays, but for all intents and purposes it counted as enemy territory. Black regiments stationed in garrisoned towns, therefore, could be called upon for occasional duty that might involve contact with conventional Confederate units, or more likely, partisans. For example, on 10 July 1864 two brigades of black soldiers left Vicksburg on a five-day expedition carrying several days rations and ammunition. Even during fatigue and guard duty the enemy was never out of mind. Attention to military discipline, continued training, and promptness remained essential.<sup>29</sup>

The 49<sup>th</sup> U. S. Colored Infantry made up a portion of these forces. Emancipated slaves from Louisiana and Mississippi populated its roster. The organization that some of them had originally joined was the 11<sup>th</sup> Louisiana Infantry Regiment (African Descent) created at Milliken's Bend, Louisiana, in May 1863. It made up part of the African Brigade that held against repeated Confederate attacks during the battle of the same name on 7 June. The Union victory ended a Rebel attempt to cut General Ulysses S. Grant's supply lines and contributed to the eventual capture of Vicksburg on 4 July 1863. Like most African American regiments it was redesignated the 49th Regiment of

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<sup>29</sup> The terms describing the geography of federal occupation are from Stephen V. Ash, *When the Yankees Came: Conflict and Chaos in the Occupied South, 1861-1865* (Chapel Hill: University of North Carolina Press, 1995), 76-77; on the war that raged between Union regulars and partisans see, Daniel E. Sutherland, *A Savage Conflict: The Decisive Role of Guerrillas in the American Civil War* (Chapel Hill: University of North Carolina Press, 2009), 161-62, 175-77; Assistant Adjutant-General Saml. B. Ferguson to Brigadier General I. F. Shepard, 9 July 1864, *OR*, XXXIX, 2, 170.

U.S. Colored Troops on 11 March 1864 and spent the remainder of its war in Vicksburg's garrison until muster out on 27 March 1866.<sup>30</sup>

Giles Sims, the man at the center of the mutiny, was wounded in action at Milliken's Bend after running to Union lines and mustering into the regiment on 21 May. He hailed from nearby Grand Gulf, Mississippi, was thirty-one years old, and a former field hand. He was promoted on 3 April 1864 after the sergeant in his company died. His age, married status, and the honor attached to his wounds likely marked him as a soldier with demonstrated attributes of loyalty, bravery, and leadership.<sup>31</sup> As with all human beings when looked at individually, he defies easy characterization and in trial documents comes across as quite human: passionate yet indecisive, idealistic yet craven. In many respects he seems like an unusual candidate to lead a mutiny, but this is a reminder that dissent by freedmen-soldiers was grounded in their fundamental loyalty to the Union cause. They understood Union victory was the best guarantee of their freedom. That made it all the more critical to define freedom as more than the simple absence of slavery.

Sims was internally conflicted about possible actions he might employ to define and defend the rights that his membership in the Army had provided him. He encouraged his fellow soldiers on 13 June to take the step of mutiny, even calling some men who would

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<sup>30</sup> Frederick Dyer, "11th Louisiana Infantry Regiment (African Descent)," "49<sup>th</sup> United States Colored Infantry," in *Compendium of the War of the Rebellion* (Des Moines, IA: Dyer Publishing, 1908); On the battle itself see Richard Lowe, "Battle on the Levee: The Fight at Milliken's Bend" in Smith, *Black Soldiers in Blue*, 107-35 and Noah Andre Trudeau, *Like Men of War: Black Troops in the Civil War, 1862-1865* (Boston: Little, Brown, 1998), 53-58.

<sup>31</sup> Giles Sims, 49<sup>th</sup> U.S. Colored Infantry, CMSR.

not participate “‘cowards.’”<sup>32</sup> But Sims, Private Street Humphrey, and three others soon thought better of confronting their captain and did not go to his tent to stack arms.<sup>33</sup>

Sims’s reluctance must also be understood within the context of the responsibilities non-commissioned officers exercised in black regiments (of both Northern freemen or former slaves). “Non-coms” bridged the cultural chasm between black enlisted men and white commissioned officers by virtue of their unique place in a black regiment’s hierarchy of command. In short, they were highly esteemed and highly valued by private soldiers and their officers alike. NCO’s took men’s complaints and needs to the company officers—often unofficially—also acting as cultural interpreters for the white image in the black mind. Furthermore, they had to interpret orders and the perspective of whites to the men while counseling caution and prudence to soldiers when they became frustrated with Army life or the discipline demanded by officers. A fellow non-commissioned officer, Sergeant James Parker, did exactly this for Sims when he insisted they both “had no cause for being dissatisfied.” Effective command meant adopting at least some of the values of their commanders while interpreting directives for their soldiers relied on the shared experience of slavery and emancipation. Representing the interests of their men to the officers often brought them into conflict with the very rule of the law that they knew guaranteed their new freedom. Thus their rank forced them into a marginal zone where they endeavored to effectively integrate the values of the

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<sup>32</sup> charges and specifications, testimony of Corporal Edward Dawson, Giles Sims court-martial.

<sup>33</sup> Testimony of Sergeant James Parker; having missed noon roll call on 13 June, Humphrey was walking the company street wearing a barrel when Sims called the men to organize, according to the testimony of Color Sergeant Buck Stafford. Like the camp punishments discussed above and in Chapter 5, Humphrey’s punishment saw employment among all Union regiments for offenses ranging from insubordination to theft, Ramold, *Baring the Iron Hand*, 357.

white Army with those of the community of formerly enslaved blacks from which they came.<sup>34</sup> Freedmen-soldier non-coms lived with a higher degree of personal and cultural dissonance than enlisted soldiers.

These attitudes lay at the base of Sergeant Sims's actions. It was not Humphrey's punishment that sparked the protest, but rather the accumulated violations of personal time and space that struck men as too much like what they knew from bondage. The men had at "different times" threatened to stack arms if "the Captain did not treat them better."<sup>35</sup> Given the static nature of their assignment in a rear area on fatigue duty the men had tried to make their living conditions more comfortable. Searching and seizing their personal property, controlling their personal habits, and violating their domiciles appeared to them as irrelevant to good military discipline and more to do with arbitrary control.

During an inspection of the men's quarters several days before Sims's call to arms, the white regimental surgeon had reported to the captain about foul smells coming from the non-regulation "boxes" the black soldiers had procured to keep extra food, uniform items, and housekeeping materials like candles. When Captain Hall investigated he found rotting food and soiled clothing. He burned the boxes and removed the candles.

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<sup>34</sup> Wilson, *Campfires of Freedom* 35; Glatthaar, *Forged in Battle*, 114-15; Samito, *Becoming American Under Fire: Irish Americans, African Americans, and the Politics of Citizenship during the Civil War Era* (Ithaca: Cornell University Press, 2009), 85, notes non-commissioned officers could face additional charges if they incited a mutiny or did not act to stop it. Parker testimony, Giles Sims court-martial. Lawrence W. Levine, *Black Culture and Black Consciousness: Afro-American Folk Thought from Slavery to Freedom*, 30th Anniversary Edition (New York: Oxford University Press, 2007 [1977]), 138-140. Levine credits Bell Irvin Wiley, *Southern Negroes, 1861-1865*, 2nd. ed. (New York: Rinehart, 1953), 109, with applying the notion of cultural marginality to the plight of the formerly enslaved.

<sup>35</sup> Stafford testimony, Giles Sims court-martial.

After the noon roll call on 13 June 1864 he announced his actions of the previous day to his company. Henceforth no soldier could possess anything beyond what he could carry in his pack. The future discovery of new boxes would mean automatic punishment. The men believed Hall “had treated them as though they were thieves.”<sup>36</sup>

Questions of property ownership and living standards came into play. While enslaved, men such as these from outside Louisiana would have been “in a state of complete dependence” on the master for provisions and household items except for perhaps a minor garden plot. For soldiers who may have come from the Louisiana sugar parishes, like the men at Fort Jackson, they had been used to possibly higher level material provision and were doing their best to make due under the Army’s restrictions of their personal possessions. For freedmen from both circumstances, life in the Army continued a level of dependence (as all soldiers would have testified). It was the Army that determined their rations and their personal effects. Sims, Fontaine, and the others believed freedom should mean the right to some personal property and privacy. After the end of the work day as enslaved laborers, back in their quarters with their families they could enjoy some relief from the interference of their masters, although their space was never entirely their own. They clearly believed that although slave quarters might have been trampled on by the master, surely their quarters as freedmen-soldiers should have been respected. Finally, perhaps most offensive to the men's existing attitudes about

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<sup>36</sup> Testimony of Captain James H. Hall, Giles Sims court-martial. Captain Hall claimed his destruction of the men’s illicit boxes were justified by regulations governing the condition of soldiers’ living quarters and their limited possession of personal items. Nothing in the regulations or the Articles of War directly supports the captain’s claim about soldier’s personal possessions, *Revised United States Army Regulations*. Kautz, *Regulations of Service*, is likewise silent on this point.

privacy and personal space, Captain Hall had entered their quarters and destroyed their possessions on a Sunday—their traditional holiday and a jealously guarded privilege they had won for themselves from their master.<sup>37</sup>

Their bid to receive better treatment began when Sergeant Sims strode from tent to tent shouting the same specific order of ““fall in”” issued by the mutineers at Fort Jackson—meant to form the company in ranks for drill.<sup>38</sup> Soldiers turned out complete with their rifles and equipment into their company street.<sup>39</sup> Sims marched the company to the tent of Sergeant Parker whose moral and physical authority Sims wanted on his side in making this dangerous move. Instead Parker talked Sims out of leading the column. When a few other soldiers also dropped out of the ranks, a private, Washington Fontaine, assumed command of the company. He promised his comrades that although “Sergeant Sims backed out he would not.” The private bellowed “Right Face!” and “marched” the company to the tent of Captain Hall.<sup>40</sup> There they stacked their arms with order and care symbolic of their refusal to do any further duty as soldiers. Fontaine stepped forward from the ranks and with perfect military discipline gave the officer a sharp salute before presenting him with an ultimatum. “Captain, we have stacked our

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<sup>37</sup> Kolchin, *American Slavery*, 153, 107, states the holiday had the protection of law in certain Southern states. Wilson, *Campfires of Freedom*, 30-31, believes slave resistance continued for the men in uniform as “black men struggled to *acquire* human rights being denied them by white men who had power and authority over them.” Original emphasis. Hall testimony, Giles Sims court-martial.

<sup>38</sup> Corporal Edward Dawson testimony, Giles Sims court-martial.

<sup>39</sup> Stafford testimony, Giles Sims court-martial.

<sup>40</sup> Corporal Edward Dawson testimony, Giles Sims court-martial.

arms and are not going to do any more duty until we can have the promise of better treatment from you.”<sup>41</sup>

Hall immediately reported the mutiny to the regimental commander, Colonel Van E. Young, who ordered a detail under the command of First Lieutenant P. Marshal Mills to march the mutineers to the guardhouse and collect their weapons and equipment. Colonel Young instructed Mills to “shoot the first man that attempted to escape, as they were mutinous.” He then demanded Sims admit his role in the demonstration, though he claimed “he knew nothing about it.”<sup>42</sup> But several hours later in response to the arrest and confinement of his comrades Sims had organized five other men into a squad with their accouterments to resume Fontaine’s initial protest action. Within a matter of minutes the colonel also placed Sims and his followers under arrest.

Like the Fort Jackson mutiny only six months before, freedmen in uniform had employed the military arts they had acquired through membership in the Army to bring about a protest action defending rights they believed accrued to their status as soldiers of the Republic. They claimed rights that were foundational to how they defined their newfound freedom. Sergeant Parker, although he did not approve the action, reported the mutiny’s purpose in his testimony: “They were going up to the Captain’s to give up their guns, and accoutrements, and get him to treat them better.”<sup>43</sup>

Yet, this demand was not a blanket condemnation of military authority. In his testimony for the prosecution, Sergeant Buck Stafford explained the focused nature of

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<sup>41</sup> Hall testimony, Giles Sims court-martial.

<sup>42</sup> Hall, Mills testimony, Giles Sims court-martial.

<sup>43</sup> Parker testimony, Giles Sims court-martial.

the protest. They did not take issue with the concurrent punishment of Private Street Humphrey, who was wearing a barrel for his tardiness to that day's noontime company roll call. Humphrey was merely enduring a camp penalty doled out to Anglo and immigrant soldiers for similar breaches of conduct. In this respect, this protest action did not meet the Army's definition of mutiny. It did not question the legitimacy of their commander's disciplinary authority. Rather it hoped to correct it and bring it back within the proper boundaries of the rule of law and humane conduct toward free men.<sup>44</sup>

By demanding "better treatment" the soldiers assumed a critical posture standing athwart their old lives in bondage and their new lives in freedom. In terms of personal time, privacy, and petty property, Army life may seem to have fallen short of their former lives. Of more importance, soldiering had so far failed to deliver the control and possession over their own lives that they had dreamed freedom would obtain for them while enslaved. The mutinies led by Fontaine and Sims were flesh and bone instantiations of the same verbal reminder offered to white authorities by a black chaplain speaking for newly emancipated soldiers under his spiritual care: "The discipline of the service ought to present to them a *contrast* to the irresponsible cruelties of slavedriving, instead of a too faithful reproduction of them."<sup>45</sup>

Other soldiers in the 49<sup>th</sup> USCI saw the status which bestowed their rights, calling them to oppose their mutinous comrades. As in the the slave quarters of old, the collective judgement of the company streets rarely resulted in a unanimous vote for

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<sup>44</sup> Testimony of Sergeant Buck Stafford, Sims court-martial; Stephen Vincent Benét, *A Treatise on Military Law and the Practice Of Courts-Martial* (New York: D. Van Nostrand, 1864), 205-07.

<sup>45</sup> Chaplain Samuel L. Gardner to Brigadier General Daniel Ullmann, 19 December 1864, in Berlin, et al., *Freedom*, Document 167.



protest. Even better than what can be gleaned from the case at Fort Jackson, the mutiny in the 49<sup>th</sup> USCI exposed the internal disagreements that arose whenever men decided to challenge authority and risked life, limb, and pay. Several black soldiers readily testified for the prosecution. Sergeant Parker testified he had flatly told Sims that, “he or I had no cause for being dissatisfied.”<sup>46</sup> While the charge of theft was never openly discussed, these loyal black soldiers may have known that the men’s boxes contained pilfered items. In their minds the hoarders had failed to be responsible, law-abiding members of the institution and thereby jeopardized all blacks’ claims to their soldier rights. Some freedmen-soldiers resorted to collective dissent to protest illegal search and a right to be secure in one’s person and possessions. Other members of the same organization defended the status quo in order to maintain their own sense of faithful allegiance against disloyalty.

The reality of these political disagreements within the ranks showcases the persistence and the evolution of a “politics of slaves” into the “politics of freedpeople.”<sup>47</sup> The enslaved person who undertook confrontation had to weigh the customary right at stake against the likelihood and intensity of the master’s punishment. In reality, no slave could withdraw his membership in the fictive household because his was a relationship of subjugation. But freedom’s tacit acknowledgement of volitional membership in the Army was supposedly shielded from abuse by the rule of law. When authority overreached its legal grasp, the member could legitimately rescind his pledge of loyalty

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<sup>46</sup> Parker testimony, Sims court-martial.

<sup>47</sup> Hahn, *A Nation under Our Feet*, 33.

until redress was obtained. At the same time, another member might decide that the institution providing protection needed to be supported against usurpers distorting the common good for their own benefit. Thus, even as freedpeople in uniform defended the Union they replayed within their own local institution the tension of antebellum associational politics that had fostered civil war.

The clashing impulses of membership played themselves out in the mutineers' court-martial, which opened 4 June 1864 at Vicksburg. It exhibited many laudable examples of the procedural protections the Army regularly extended to all troops. Courts could be composed of officers from a defendant's regiment as long as they were not party to the case. The officers on the court all hailed from the U.S. Colored Troops, but the brigade commander ordered Captain Hall temporarily to recuse himself from the court during the trial.<sup>48</sup> Soldiers also had rights under military law to dispute the court's composition and to rely on defense counsel, though these defendants availed themselves of neither. Sergeant Giles Sims and Private Street Humphrey, however, did cross-examine two of the black soldiers who testified against them although they chose not to question the officers.<sup>49</sup>

At the same time, the court-martial also exhibited how black soldiers' chances for justice were more lessened when some protections were not ensured. Two of the officers on the court, Captain William M. Dungan and Second Lieutenant J. Frank Miller, came

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<sup>48</sup> This officer, Brigadier General John P. Hawkins, earlier observed proper procedure after a mutiny on 24 December 1863 by the 53<sup>rd</sup> USCI. He forbade their commander from dispensing summary execution and ordered the prisoners be sent to him for proper trial by a general court-martial, Hawkins to Colonel R. H. Ballinger, Milliken's Bend, Louisiana in Berlin, et al., *Freedom*, Document 177.

<sup>49</sup> Proceedings in Giles Sims court-martial.

from the 49<sup>th</sup> USCI. Miller, assigned as judge advocate, strayed at points from his responsibility to protect the defendants from inappropriate questioning. Most notably, he failed to provide the defendants with their right to make a closing statement in their own defense. Soldiers usually took this opportunity as a way to introduce further mitigating circumstances or pleas of previous good conduct.<sup>50</sup>

All of the defendants pled not guilty to the charge of mutiny and two specifications: the first concerned its genesis and execution and the second stipulated the failure of any defendants to halt the mutiny or warn their commanding officer. The court found sixteen of twenty-one defendants guilty of the charge of mutiny and both specifications. Four others were guilty of inciting the mutiny and failing to stop it, but acquitted of taking part. Only Street Humphrey, relying on his alibi that he was already under arrest, went free. Seventeen men faced hard labor for life, forfeiting all pay and benefits. A single defendant, Robert Randall, received hard labor for the remainder of his enlistment. Major General O. O. Howard, the district commander, approved and confirmed these sentence on 3 July 1864—almost exactly a year from the triumphant capture of Vicksburg. Howard—a sincere advocate of the freedpeople, soon to be commissioner of the Freedmen’s Bureau, and later founder of Howard University—likewise confirmed the death sentences assessed to Sims and Private Washington Fontaine. Transported

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<sup>50</sup> Proceedings in Giles Sims’s court-martial; Samito, *Becoming American Under Fire*, 86-87, also points out the judge advocate’s obligation to see the defendant did not incriminate himself and disallow leading questions. At the same time, it should be remembered that most officers serving on courts had no legal training.

back to Vicksburg, they were executed by firing squad in the presence of their regiment on 25 September 1864.<sup>51</sup>

The execution of Sims and Fontaine contrasts sharply with General Banks's suspension of the death sentences at Fort Jackson. In both cases the charge was the same. Arguably more grave issues of unequal pay and abuse prompted one mutiny, those of privacy and personal autonomy the other. Freedmen-soldiers in Louisiana were spared by a general whose larger policy never ceased seeing emancipated blacks as instruments in Union victory. Those at Vicksburg were sent to their deaths by an officer who spent much of his energy during Reconstruction protecting freedpeople from white violence, ensuring their access to impartial justice, and expanding their access to education. At Fort Jackson the mutineers sentenced to death had threatened the lives of officers. In Mississippi neither executed soldier employed violence and Sims had even hesitated at one point to follow through with his participation.

These conflicting outcomes shed light on the tortuous path of race relations traced out during the Civil War. Freedmen-soldiers knew at every step the coercive power arrayed against them. Membership in the Army clearly meant a great deal to these men for they were willing to stake their lives upon the proposition that they enjoyed statutory rights like protection from cruel punishment and unjustified search. They found

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<sup>51</sup> Charges, specifications, sentences, and review, Giles Sims court-martial; Brooks D. Simpson, "Ulysses S. Grant and the Freedmen's Bureau," in Paul A. Cimballa and Randall M. Miller, eds., *The Freedmen's Bureau and Reconstruction: Reconsiderations* (New York: Fordham University Press, 1999), 5-11, 15. See also William S. McFeeley, *Yankee Stepfather: General O.O. Howard and the Freedmen* (New Haven: Yale University Press, 1968).

conviction for this struggle in their tradition of confrontation. It prompted them to assert their soldier rights even when held in prison.

The War Department remitted the remaining sentences of life at hard labor for the seventeen men confined at the Military Prison in Alton, Illinois, on 4 May 1865 after appeals to the War Department by officers from regimental to district command following the executions. The officers' letters recorded a common theme: the men were remorseful, had acquiesced to military order, and should be returned to duty. The imprisoned soldiers believed they had the right to relate their side of the story which prompted them to write the Secretary of War. To prove their loyalty they offered to serve another three years in exchange for early release from prison. They claimed to have not been "acquainted with the proscribed laws & regulations of The United States" when they mutinied. They had never intended to "injure The government." Mutiny served "The purpose of resenting the repeated ill treatment of our officers." Their officers had treated them "in the most shamefull manner." They had obeyed the Articles of War and complained repeatedly to the colonel about their company officers, but he consistently rebuffed them. Mutiny was the last straw by men who "intended to fight for The country expecting to be treated as human beings."<sup>52</sup>

The men's claim of ignorance must be weighed carefully. The illiteracy of most newly free blacks contributed to a lack of familiarity with all one hundred-one Articles of War and the nearly five hundred pages of regulations. Yet, many Anglo and immigrant soldiers also had only an acquaintance with the Articles and regulations. The

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<sup>52</sup> Price Warfield, et al., 49<sup>th</sup> USCI to Secretary of War Edwin M. Stanton, 20 February 1865, in Berlin, et al., *Freedom*, Document 187.

enslaved's practice of dissembling in order to frustrate the master's power certainly remained as tactic for some even after they had donned Union uniforms. Before the mutiny, emancipated black soldiers at Fort Jackson, however, complained to their officers about mistreatment, a right provided for under the thirty-fourth Article of War. If the men had only some familiarity with the regulations it is likely they paid attention to Article I which demanded obedience by soldiers to their superiors, but insisted authority had to be applied with "kindness and justice to inferiors" by never employing "tyrannical or capricious conduct" or "abusive language."<sup>53</sup>

Freedmen-soldiers' letters to President Abraham Lincoln make this case as well. For instance, one explained that "most all colored troop recruited in this department with few exceptions are egnorent men who know nothing more than the duties...as slaves...and of course are as totally egnorent of the regulations as a poor while [wiley] efrian is of gramer or algebra."<sup>54</sup> Another soldier confined to prison for insubordination had his copy of the regulations taken from him before he had been able to learn them.<sup>55</sup> Finally, a soldier accused of desertion and insubordination but "asking for Jested [justice]" from the President explained that because "I am a colored man...I have no education I don't know nothing at all about law [but] I am willing to do all I can for you as solger or a man

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<sup>53</sup> Article I, Revised Regulations for the Army, *Revised United States Army Regulations*, 9.

<sup>54</sup> Samuel Roosa writing to President Abraham Lincoln on behalf of Jack Morris, a Louisiana freedman in the 73<sup>rd</sup> USCI, 24 January 1864, in Berlin, et al., *Freedom*, Document 193.

<sup>55</sup> William D. Mayo, a Louisiana freedman-soldier in the 86<sup>th</sup> USCI, to the President, 7 October 1864, in Berlin, et al., *Freedom*, Document 180.

if you pleas do all you can fer me.”<sup>56</sup> At the same time these tactics did not completely offend military law. Although men could not use ignorance of the Articles of War to prevent punishment, they could argue it as an extenuating circumstance in the charges against them.<sup>57</sup>

What stands out more strongly is that through their mutiny soldiers like Price Warfield and his comrades in the 49<sup>th</sup> USCI had evolved toward putative citizens. Directing their complaints all the way to a distant civilian head of the Army or the civilian commander-in-chief in the case of other soldiers was an enormous leap from slave confrontation towards citizen participation. The President and the Secretary of War did not have personal bonds of obligation to the soldier. Rather it was the freedman-soldier’s voluntarily assented (usually) membership in the Army that formed the legal basis for so bold an act as newly-freed black soldiers to appeal the sentence of a valid military court to their representatives under the U.S. Constitution.

The freedman-soldier’s presumption that he was capable of interpreting whether or not his commanders acted with justice was one part of the under appreciated revolutionary changes unfolding in the process of military Reconstruction and civil war. The vital public culture of antebellum civil society took seriously the citizenry’s right to judge the actions of the government, register its dissatisfaction with the government in a host of ways, and if necessary, withdraw its consent to be governed. African Americans practiced such popular constitutionalism when they engaged in collective dissent. They

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<sup>56</sup> David Washiton, an emancipated Mississippian in the 3<sup>rd</sup> United States Colored Cavalry to the President, 26 November 1864, in Berlin, et al., *Freedom*, Document 182.

<sup>57</sup> Kautz, *Customs of Service*, 7.

brought their sense of justice with them from slavery and drew solidarity from the experience of soldiering. Here we find not just the roots but the very sprouting of African American citizenship.

***“I Think the Very Best Captain”: Kentucky Unionism and Freedmen-Soldiers in the Court-Martial of Captain Evan Kennedy, 119<sup>th</sup> U.S. Colored Infantry***

Soldiers in Company H, 119<sup>th</sup> Regiment of U.S. Colored Infantry had, in their company commander, Captain Evan D. Kennedy, an officer committed to their education and equal treatment. In 1865 the military protest actions of a group of Kentucky freedmen-soldiers witnessed a capability to defend their soldier rights going beyond mutiny. Their collective testimony during a court-martial in this regiment denied the falsehoods a cabal of anti-black, native Kentucky officers tried to foist on the Army against Kennedy—all in an effort to maintain the racial status quo in the state while putting a Yankee in his place. This incident within the 119<sup>th</sup> USCI provides an example of how freedmen-soldiers’ methods for asserting the rights belonging to their membership in the Army gained increasing sophistication over the course of the war. Not only had emancipated black soldiers more precisely defined their freedom, but this incident represents a growing belief in their personal independence and their equality with white citizen-soldiers. Unlike the men in the 4th Infantry, Corps d’Afrique, the 33<sup>rd</sup> USCI, or the 49<sup>th</sup> USCI, these Kentucky soldiers had only served for a short time under an officer, but grasped early on the panoply of rights conferred by their soldier status. They also recognized some officers within their command continued to serve for reasons at odds with their freedom and potential citizenship. They knew that disagreement festered amongst their white commanders about the proper relationship between black



officers and men. African American soldiers in the 119<sup>th</sup> USCI determined to disprove a charge of insubordination and misconduct against their ally, Captain Kennedy, at the same time they fully utilized their access to the rule of law by coming to his defense through the official channels offered within the military justice system.

The 119<sup>th</sup> had a short history. It had only mustered into service in January 1865 at Camp Nelson, Kentucky, and was disbanded eighteen months later. Camp Nelson spread across the rich bluegrass land of Jessamine County—flanked by the towering Palisades of the Kentucky River and its tributary Hickman Creek—in seeming proportion to the war’s proliferation across the breadth of the United States. At Camp Nelson dusty parade grounds erased verdant pastures. Vast commissaries eclipsed humble barns. Row upon row of fly tents replaced fields of corn and oats. The camp’s brief domination of the landscape until the government closed it in April 1866 supplanted the region’s farming and its small amount of tobacco cultivation. The Army depot’s 300 buildings eventually took up the better part of 4,000 acres in order to service the 80,000 Union troops who mustered, entrained, drilled, quartered, recuperated, or died there during the war.<sup>58</sup>

Eight regiments of freedmen-soldiers enlisted and trained at Camp Nelson. With the exceptions of small fights at Glasgow and Taylorsville, Kentucky, Camp Nelson formed the principal canvas on which most of the 119<sup>th</sup>’s war service unfolded.<sup>59</sup> Kentucky

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<sup>58</sup> W. Steven McBride and William E. Sharp, “Archaeological Investigations at Camp Nelson: A Union Quartermaster Depot and Hospital in Jessamine County, Kentucky,” *Archaeological Report* 241 (Lexington: University of Kentucky Program for Cultural Resource Assessment, 1991), 19-25; William Henry Perrin, J. H. Battle, and G. C. Kniffin, *Kentucky: A History of the State* (Louisville: F. A. Battey, 1887), 602-3.

<sup>59</sup> McBride and Sharp, “Archaeological Investigations,” 19-25; Dyer, “119<sup>th</sup> United States Colored Infantry,” *Compendium*, 1740.

presented a unique case for black recruitment. It was a badly divided state where Unionist sentiment and slaveholding had a uniquely strong marriage, much like their most famous politician Henry Clay. Unlike Louisiana, South Carolina, and Mississippi, states experiencing emancipation (at least by degrees) beginning as early as 1863, only the Thirteenth Amendment to the U.S. Constitution in December 1865 legally ended slavery everywhere within the borders of the Bluegrass State.<sup>60</sup> Freedom came earlier to some of the enslaved, however, under the policies of military emancipation in 1862 initiated through the Militia Act and Second Confiscation Act of 1862. Nevertheless, Democratic Governor Thomas E. Bramlette, the legislature, and the state's master class stymied the Lincoln administration throughout 1863 and 1864 in its efforts to recruit blacks. Again and again they warned of emancipation's deleterious effects on Kentucky's loyalty to the Union.<sup>61</sup>

By mid-1864 the success of the Union war effort in Tennessee, through the control of Nashville and Chattanooga, had contracted the Confederate frontier. The once omnipresent threat that Kentucky might be the scene of major military operations diminished accordingly. Once the national government grasped this new reality, its growing affinity for the emancipation lever and its continuing need for new sources of manpower made the imposition of black recruitment in Kentucky a logical development. That conclusion became law when amendments to the 1863 Enrollment Act declared that "all able bodied male colored persons, between the ages of twenty and forty-five

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<sup>60</sup> Patrick A. Lewis, "'All Men of Decency Ought to Quit the Army': Benjamin F. Buckner, Manhood, and Proslavery Unionism in Kentucky," *Register of the Kentucky Historical Society* 107, no. 4 (Autumn 2009): 513-51 (521); Ash, *The Black Experience*, 70.

<sup>61</sup> Berlin, et al., *Freedom*, Document 97.

years, resident in the United States” were eligible for service as volunteers, substitutes, or conscripts. Furthermore, African Americans enslaved by masters loyal to the United States were transformed from property into freedmen by joining the Army. The revised law also stipulated that the federal enlistment bounty would be paid to the freedmen, not their former masters.<sup>62</sup>

Lastly, the law mandated a draft if a state could not fulfill its quota through volunteer enlistments. In Kentucky this provoked white violence against slaves attempting to enlist at the same time other whites urged support for wholesale African American recruitment. These whites hoped black enlistment would shield them from conscription. As early as June 1863 the commandant of Fort Nelson, General T. B. Boyle, prophesied that black enlistment would “revolutionize” white Kentuckians against the national government, and do “infinite and inconceivable harm” to the Union cause in the state. A The political and racial tumult in Kentucky also increased the proportion of self-interested white applicants for officer commissions in the proposed USCT regiments to come from the state. White males who were eager to avoid conscription, reluctant to face combat duty if drafted, or despondent about life as a private soldier came forward. Such men became officers in Kentucky’s black regiments regardless of their political sympathies about the freedmen.

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<sup>62</sup> “An Act to Further Regulate and Provide for the Enrolling and Calling Out of the National Forces, and for Other Purposes,” *Congressional Record*, 38<sup>th</sup> Congress, 1<sup>st</sup> Session, Ch. 237, 1864, amendments of 24 February, 4 July 1864; Aaron Astor, “‘I Wanted a Gun’: Black Soldiers and White Violence in Civil War and Postwar Kentucky and Missouri,” in Paul A. Cimbala and Randall M. Miller, eds., *The Great Task Remaining Before Us: Reconstruction as America’s Continuing Civil War* (New York: Fordham University Press, 2010), 34-37.

The foregoing political context directly influenced the formation and service of the 119<sup>th</sup> USCI. About 400 hundred of its soldiers were newly free Kentuckians with the other half hailing originally from Tennessee, the Carolinas, Georgia, or Virginia.<sup>63</sup> Much like the 4<sup>th</sup> Infantry, Corps d’Afrique, white chaplains devoted considerable time to literacy training for many freedmen-soldiers who hoped they might correspond with distant families still in bondage. All Civil War soldiers experienced the emotional pain of separation from loved ones at home. Freedmen-soldiers had the added burden of knowing that their enslaved relations remained at risk of the peculiar institution’s physical pains. In this regard, correspondence did not always bring welcome news. For example, one Kentucky freedman feared for his enslaved wife’s safety when he learned the master had delivered a beating meant to declare that, “all the ‘niggers’ did mighty wrong in joining the Army.”<sup>64</sup>

Soldiers’ families looked for any chance to escape from such abuse. Their letters urged kin to come to Camp Nelson. Unfortunately, enlistment in the Army had only legally freed draft-age, enslaved men. Women, children, and aged men remained in legal bondage. When they fled to Camp Nelson to join their male kin, therefore, they had no protection under the law. Their arrival prompted the government to create a Refugee Home adjacent to the military camp in response to various military officials issuing expulsion orders for the black camp followers from the camp’s environs no fewer than eight times between June and November 1864. After each reversal the escaped slaves

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<sup>63</sup> Richard D. Sears, *Camp Nelson, Kentucky: A Civil War History* (Lexington: University Press of Kentucky, 2002), xxv-xxxix; McBride and Sharp, “Archaeological Investigations,” 19-25.

<sup>64</sup> Berlin, et al., *Freedom*, Document 302.

returned and more always seemed to follow; an apparently endless stream. In November the most heinous removal led to hundreds of African American civilians freezing to death. Outcry in the press and urgent inquiries by the government led to the termination of the commandant who ordered it and the creation of the Refugee Home. The existence of the Home acknowledged that soldiers' families were indeed entitled to government protection. It became a key event for the March 1865 legislation that freed black soldiers' wives and children.<sup>65</sup>

Explaining the creation of the Refugee Home in June 1865, the superintendent grasped the revolutionary significance of the black enlistment that had brought it about: "these colored men *for once* in their lives dared to act for themselves; and offered themselves as a shield for the protection of the institutions of the country."<sup>66</sup> This basic dynamic was at work in freedmen-soldiers' protests. Their direct actions defended the fundamental institution of the rule of law against the abuse of power. Initiated by volitional membership in the military, they were not sudden epiphanies brought on by freedom, but rather grew out of enslaved blacks' traditions of confrontation and accommodation. The enslaved had long been acting to preserve spheres of self-definition, however tightly circumscribed those may have been.

At Camp Nelson in the late summer of 1865, however, the abuse of power faced by freedmen in uniform appeared in the guise of protection. Kentucky officers suspicious of

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<sup>65</sup> Major General Speed S. Fry, a slaveholding Kentuckian from the Bluegrass counties, ordered the November expulsion, Sears, *Camp Nelson*, I-lvii. James A. Ramage and Andrea S. Watkins, *Kentucky Rising: Democracy, Slavery, and Culture from the Early Republic to the Civil War* (Lexington: University Press of Kentucky, 2011), 330-1.

<sup>66</sup> Berlin, et al., *Freedom*, Document 312B, emphasis added.

the challenge to race relations made possible by wartime and military emancipation sought to stem the tide. The incident in the 119<sup>th</sup> USCI was not a mutiny. Rather, by participating in yet another court-martial, the freedmen-soldiers resisted a reversal of their fortunes. This time they were only witnesses in the proceedings. The contestants were the regiments' Anglo officers against an immigrant Scot, Captain Evan Kennedy. First Lieutenant John Wright, Company B, 119<sup>th</sup> USCI, preferred charges of disobedience of orders, conduct prejudicial to good military discipline, and conduct unbecoming an officer and a gentleman. He contended that Kennedy, commander of Company H, struck four black soldiers during drill.<sup>67</sup>

The alleged victims formed part of the company's "awkward squad," a standard practice in the Army whereby by men who required additional drill in keeping step and displaying military bearing were temporarily reassigned to this remedial section.<sup>68</sup> On the early morning of 28 June, Wright observed as Kennedy harangued the "awkwards" during drill, grabbed Private John Pittman from the ranks, and struck him a number of times with the hilt of his sword before returning him to the ranks.<sup>69</sup> Some days later, Wright questioned some "awkward" privates, George Kennedy, Armistead Simmons,

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<sup>67</sup> Charges and specifications, and testimony of Lieutenant Wright, and testimony of Private George Stepney in the general court-martial of Captain Evan D. Kennedy, 119<sup>th</sup> United States Colored Infantry, MM2865, Court-Martial Case Files, RG 153 Records of the Judge Advocate, National Archives, Washington, D.C. (hereafter Kennedy court-martial).

<sup>68</sup> Kennedy's cross-examination of Stepney, Kennedy court-martial. For an example of the practice in Anglo regiments see, Private Asa Story, Asa J. Story Papers, Coll. 13848, New York State Library, Albany, 10th New York Cavalry, who confided to his diary on 8 July 1862, that his captain had "detailed a corporal" that day "to drill me till I could *get the position of a soldier* and beat time, about face, etc." Story, however, defied these attempts at instruction. It got him "tied to a post...roasting in the sun in one of the hottest days of summer."

<sup>69</sup> Charges and specifications, and testimony of Wright, Corporal Martin Spiller, and Private Alexander Hoppers, Kennedy court-martial.

George Stepney, James Watson, and Joseph Wilson, who admitted they too had received similar treatment for not keeping step, for talking in the ranks, and for not holding up their heads.<sup>70</sup> He summoned the regiment's white assistant surgeon, Dr. George C. Estabrook, to inspect the men for physical evidence of the abuse. Wright called Kennedy's punishments "unwarranted," a violation of their commanding officer, Lieutenant Colonel Thomas R. Weaver's, direct orders to invoke blows only against insubordinate or mutinous soldiers. Weaver demanded officers "not strike the enlisted men" especially during battalion drill or when soldiers failed to "perform the parts, or lessons of instruction given them." While "not the general rule" of treatment in the regiment according to Wright, Weaver believed such practices too prevalent.<sup>71</sup> Wright's charges also specified Kennedy failed as an officer when he neglected proper medical care for Private Eli Scott who later died. An example needed to be set. When the guard arrested Kennedy to await court-martial, Lieutenant Wright took command of his company.

The court-martial opened on 22 August 1865. In it the emancipated slaves in uniform painted a picture of Kennedy entirely at odds with the one Wright wanted to display. Ten black soldiers, Dr. Estabrook, and Lieutenant Wright testified for the Army. The court called some of the men questioned earlier by Wright as witnesses for the prosecution. Others had been bystanders on 28 June but, uniformly, they cited their comrades in the awkward squad as chronic slouches. Private Wilson was "a very obstinate kind of chap."

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<sup>70</sup> Charges and specifications, and testimony of Sergeant Creed Carter, and Privates Newman Manuel and George Stepney, Kennedy court-martial.

<sup>71</sup> Charges and specifications, and Wright testimony, Kennedy court-martial.

Pittman marched poorly and was “very troublesome” about drill, and his insubordination “bothered us a good deal.”<sup>72</sup> Even Pittman, who Wright saw Kennedy strike, acknowledged he could not keep step. Every witness testified Kennedy rarely struck the soldiers under him, and when he did, it lacked anger or brutality. According to several of the men disciplined on 28 June, the blows were light and did not hurt. No soldier classified the corporal discipline as brutal, unjustified, or even routine. Estabrook certified he could find no evidence of abuse.<sup>73</sup>

In the 6 July 1865 death of Private Scott, the court could not determine Kennedy's culpability due to conflicting evidence. Crucial exculpatory testimony came from the acting orderly, Sergeant Creed Carter, who revealed Scott might have been trying to avoid duty. Carter admitted he did not report Scott's worsening condition to the captain because Scott had confided that he did not want to visit Dr. Estabrook again as ““he reports me for duty; I am not able for duty and it is no use for me to go.”” Carter's admission that he neglected his duties as an orderly to appease Scott's stubbornness cast doubt on how much Kennedy knew and, therefore, could have done to aid his soldier.<sup>74</sup>

Most importantly, the witnesses uniformly testified to Kennedy's record of kind, conscientious command and sincere care for them. To give just one example, Private

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<sup>72</sup> Carter, Hoppers, and Spiller testimony, Kennedy court-martial. The quotations selected are representative, but taken from the remakes of Spiller.

<sup>73</sup> Carter, Stepney, and Pittman testimony, and testimony of Assistant Surgeon Dr. George C. Estabrook Kennedy court-martial.

<sup>74</sup> Estabrook and Carter testimony, Kennedy court-martial. Scott's decision to shirk duty owed as much to the enslaved's tactic of reporting to the sickhouse to resist labor for the master deemed excessive or burdensome as anything else, see Rosengarten, *Tombee*, 157. Although it cannot be determined if Scott belonged to the awkward squad, the extra drill required would have certainly been motivation to seek the hospital for respite.



Alexander Simmons considered Kennedy “a very fine man; I think the best Captain, at least I like him the best of any in the regiment; he is a kind man; he don't swear; and don't punish his colored troops; he is kind to them and favors them.” Kennedy had seen to the military and personal education of the ninety-eight freedmen in his company—like some other USCT officers he offered them elementary education each night for two to three hours. In his own words, he wanted “to be a father and a brother to every man in my company.” Even Surgeon Estabrook believed Kennedy had a reputation for being “unusually kind” to his men and they had never complained about him as far as he knew.<sup>75</sup>

George Stepney gave the only impression of something approaching harsh discipline, but maintained he never saw Kennedy hit anyone else. On 28 June, Kennedy yelled at him to keep step. When he failed to do so, Kennedy struck him hard enough to make him stagger from his place in the ranks. Although “it bled a good deal” he “still drilled every day.” Stepney claimed he initially failed to respond out of ignorance; the captain had not addressed him by name.<sup>76</sup>

Lieutenant Wright, in contrast, claimed Kennedy's reputation for treatment of the men *among the officers* was “very shameful.” Kennedy countered that many officers of the regiment struck soldiers with the flat of their sword. Colonel Weaver “seemed prejudiced against me from the beginning” and a Lieutenant Colonel Hanaford created “such opposition and such false impressions” with the officers that his reputation was

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<sup>75</sup> Testimony of Private Alexander Simmons, Estabrook testimony, and Kennedy closing statement, Kennedy court-martial.

<sup>76</sup> Stepney testimony, Kennedy court-martial.

sullied immediately. While his alleged abuse of enlisted personnel were the grounds, the charges themselves concern Kennedy's conduct as an officer within regimental orders laid down by white authority. In a regiment of black soldiers, his conduct as an officer meant at the same time his conduct as a white.

What kind of white authority had Kennedy crossed? What kinds of norms of white behavior had he “shamed?”<sup>77</sup> Kennedy's background, experience, and attitudes all challenged the racial norms of Kentucky society. Although he settled in Louisville after the war to practice law, Kennedy was a Scot, born in 1825 in Moy, Inverness.<sup>78</sup> It is not clear when exactly he emigrated to the United States, but he rallied immediately to the Union cause and joined the 79<sup>th</sup> New York Regiment in May 1861, mustering out as sergeant.<sup>79</sup> His foreign birth and accented speech helped mark him as an obvious “other,” but it was likely his controversial ideas about slavery that raised the ire of the Kentuckian officers at Camp Nelson. After his discharge in May 1864 Kennedy spent the next five months in New York City to secure his naturalization as an American citizen, effective 19 October 1864. He left the bustling metropolis in late October or early November for Camp Nelson's no less bustling grounds to assume the office of superintendent for colored refugees; to treat the freedpeople “as neighbors, to consider their interests as my mine and to look upon every man as a brother; to tenderly regards

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<sup>77</sup> Wright testimony, Kennedy closing statement, Kennedy court-martial.

<sup>78</sup> Parish: Moy and Dalarossie; ED: 2; Page: 18; Line: 7; Roll: 1339; 1851 Scotland Census, Reels 1-217, General Register Office for Scotland, Edinburgh, Scotland [accessed via <http://www.ancestry.com>].

<sup>79</sup> Evan D. Kennedy, *U.S. Civil War Soldier Records and Profiles*, Historical Data Systems, comp. [accessed via <http://www.ancestry.com>]. The profiles of Civil War soldiers rely on records like military service records, state muster rolls, pension applications, and in some cases regimental histories. Kennedy was a private in the 79<sup>th</sup> New York Infantry Regiment when it experienced its 1861 mutiny discussed in Chapter 7.

their interests; their character, and their property as my own.” The missionaries and activists who worked alongside him at Camp Nelson praised him for the job he did rendering assistance with food and shelter to the families of black soldiers in addition to processing their requests for the back pay and pensions of soldiers killed or incapacitated while in uniform.<sup>80</sup>

Kennedy's efforts to assist the formerly enslaved attain a position of dignity assumed a higher pitch when he became a captain in the 119<sup>th</sup>. He explained in his statement to the court that he had from the beginning sought to make his men's interests his own. A claim like this on first glance sounds like so much antebellum paternalism from Northern whites who saw blacks as, at best, children in need of guidance. What is striking about Kennedy's views is that he repeatedly adopted filial and communitarian language to describe his relationship to the men: “to consider them as neighbors” and “to look upon every man [in his company] as a brother.” These convictions that families and communities could, and should, be biracial along with Kennedy’s efforts to assist the African American refugees at Camp Nelson and his outsider status constitute what Wright had in mind as “shameful.”<sup>81</sup>

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<sup>80</sup> Evan D. Kennedy, Soundex Index to Petitions for Naturalizations Filed in Federal, State, and Local Courts in New York City, 1792-1906, Microfilm Serial M1674, Roll 135, National Archives, Washington, D.C. According to the Naturalization Act of 1802, Kennedy would have had to have lived for five years in the United States and one of those in New York prior to naturalization, putting his arrival in America no later than 1859; *Statutes at Large*, II, 153-55; Kennedy closing statement, Kennedy court-martial; Sears, *Camp Nelson*, 172-74.

<sup>81</sup> Kennedy closing statement, Kennedy court-martial; Sears, *Camp Nelson*, 179-80. Contrast Kennedy’s attitudes with Reid Mitchell’s conclusion that segregated black military service “created fewer reciprocal bonds than it might have” and ensured “the image of the family remained white only,” Mitchell, *The Vacant Chair*, 68-9.

If Kennedy's actions and attitudes towards the formerly enslaved challenged those of Kentucky-born white officers, then the commandant of the post in November 1864, General Speed S. Fry, was typified those Bluegrass officers. Fry came from Mercer County in the heart of the slaveholding Bluegrass region and from a family with significant property in land and slaves.<sup>82</sup> Wright, Hanaford, and a significant portion of the officers in other Kentucky black regiments assembled at Fort Nelson, like Fry, came from the slaveholding society of the Bluegrass region.<sup>83</sup>

Many of these Kentuckians had been staunch Unionists for most of the war. According to one historian, “Initially secession seemed to them a rejection of stability and order. Pro-secessionist fireeaters had abandoned the honor and loyalty to the Constitution—what had always been slavery’s best defense—demanded of a gentleman.” At the war’s outset, “large numbers” of such people “fought for the Union precisely because they thought it would best preserve slavery.”<sup>84</sup> Writing in late 1861—well before Emancipation became a war lever—a fellow Kentuckian wrote of the threat to loyal Kentuckians’ property and homes by Confederate guerrillas.<sup>85</sup> Emancipation and black enlistment shifted these commitments. The social order conferred by slavery was part and parcel of that brought by Union. When emancipation became a reality at the

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<sup>82</sup> William Henry Perrin, J. H. Battle, G. C. Kniffin, Vol. V, *Kentucky Genealogy and Biography: Sketches from Adair, Boyle, Casey, Cumberland, Garrard, Green, Lincoln, Madison, Marion, Mercer, Nelson, Taylor, Washington Counties* (Owensboro, KY: Genealogical Reference Co., 1970 reprint, original 1887), 22.

<sup>83</sup> Profiles of Lieutenant John Wright and Lieutenant Colonel George A. Hanaford, *U.S. Civil War Soldier Records and Profiles*, Historical Data Systems, comp., Ancestry.

<sup>84</sup> Astor, ““I Wanted a Gun,”” 31.

<sup>85</sup> Lewis, ““All Men of Decency,”” 521-24.

beginning of 1863 white Kentuckians logically saw the national government as the greater threat to slave property and social order. To participate in, much less encourage, emancipation and black enlistment was indeed “shameful” within this mindset. At stake was the survival of a Kentucky society and culture that made white men’s identity, power, and control possible.<sup>86</sup>

The speed, breadth, and intensity of black enlistment in Kentucky portended a truly revolutionary upheaval to its white population. Nearly 60 percent of Kentucky’s military-age African American males joined the Union Army in less than twelve months. The majority of these new freedmen-soldiers acted as garrison troops and thereby became visible, daily reminders that the relationships of subordination between black and white had been overthrown. Emancipated slaves in uniform “represented an affront to prevailing white conceptions of citizenship.” In donning the Union blue “they had the audacity to claim the prerogatives of equal citizenship commensurate with a Union soldier.”<sup>87</sup>

These same factors also created a remarkable episode of solidarity between a recent immigrant and black soldiers. Like the men he commanded, Kennedy knew a level of prejudice and opposition from the regiment’s officer corps. Both were outsiders in Southern white society. Kennedy’s efforts at uplift among his black soldiers offended the racial sensibilities of the regiment’s Kentucky officers enough to initiate a conspiracy against him. In a letter of 19 May 1883 to the Judge Advocate requesting a copy of the

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<sup>86</sup> Lewis, ““All Men of Decency,”” 529-37; Bertram Wyatt-Brown, *Honor and Violence in the Old South* (New York: Oxford University Press, 1986), ix; see also William J. Cooper, Jr., *Liberty and Slavery: Southern Politics to 1860* (Columbia: University of South Carolina Press, 1983).

<sup>87</sup> Astor, ““I Wanted a Gun,”” 36-38, 43.

transcript to learn the “facts of the trial,” he described the court-martial as “the inconvenience of having charges concocted against me by a worthless ring in the regim[ent], the 119<sup>th</sup> U. S. Col’d Infantry.” The court-martial of Captain Evan D. Kennedy presented late-war black freedmen-soldiers defending not only themselves through the military justice system, but a white ally as well. Their efforts succeeded. On the strength of their testimony, the court acquitted Kennedy except for a neutered first specification of the first charge. It acknowledged he struck the men on parade with his sword, but denied he would “shamefully mistreat and abuse” his men “in a brutal manner.” He was released from arrest and returned to the command of Company H.<sup>88</sup>

The episode in the 119<sup>th</sup> USCI presented a wartime example of the kind of solidarity possible at times during Reconstruction among black citizens and white “carpetbaggers.” The conspiracy against Kennedy may have been intended to shame him into leaving the regiment, especially because his abolitionist sentiments had brought him to Camp Nelson as a superintendent of black refugees and informed his conduct as an officer. Kennedy’s black troops derailed white supremacist Kentuckians from using military law and military regulations against an officer whom they favored and could plainly see had made genuine efforts to assist both them and their families on the road to freedom. Even if exceptional, this formal exercise of their soldier rights under military law within the walls of a courtroom exemplified how the emancipated slaves’ possession and interpretation of their rights of membership in the Army served as a crucible for eventual black citizenship.

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<sup>88</sup> Charges, specifications, and verdict, Kennedy court-martial.

Yet, even if the court-martial of Kennedy can be interpreted as an example of freedmen-soldiers frustrating the efforts of racist whites to stem the revolutionary tide of emancipation, there remain elements of a more bitter reality. First, in the realm of jurisprudence, one student's claim must be taken with reservation that, "Rather than sanction a different disciplinary scheme for African American troops, the federal government held black soldiers entitled to the same application of military justice and court-martial procedure that whites enjoyed."<sup>89</sup> Kennedy cross-examined every single witness, the judge advocate recrossed witnesses, and the defendant gave a lengthy, persuasive closing statement. Years after the trial Kennedy availed himself of the right to obtain a copy of the court-martial proceedings. No black court-martial involving emancipated blacks as defendants approached this kind of a vigorous defense. Even after their own efforts at literacy, their attempts to master the Army's laws, and their participation in military justice, they remained at a great disadvantage to mount vigorous defenses of their own within an Army courtroom. Tried and prosecuted at the same rate as whites for essentially the same distribution of offenses, freedmen-soldiers consistently faced much harsher penalties and met death a greater percentage of the time.

White officers continued to believe that African American soldiers must have the importance of obedience enforced through harsh measures because they lacked civilization. Cultural factors on the part of the slaves also contributed. Bereft of a sufficient level of education, acculturation, and citizen confidence to turn court proceedings to their benefit, performances such as those in the Kennedy court-martial

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<sup>89</sup> Samito, "The Intersection between Military Justice," 202, 207. Samito acknowledges that sentencing was much harsher for African American soldiers.

were rare. This left emancipated slave-soldiers exposed to sentences that could have been mitigated through a more full explication of circumstances and an effective creation of doubt in the minds of the court. In the end, African American soldiers' few victories came through acts of military resistance on the parade ground, not dramatic efforts in a courtroom. Freedmen-soldiers' dissent functioned as bridges between the hopes for freedom born in slavery and the possibilities of a citizenship under a reconstituted Union.

### ***Conclusion***

The minute gains and immense personal costs that freedmen-soldiers endured reveal the multifaceted challenges they faced in their bid for freedom. In Kentucky from 1864-1866 numerous instances of white violence took place specifically targeting African American soldiers while Kentucky civil law continued to bar black testimony.<sup>90</sup> In South Carolina, emancipated slaves strove hard to establish themselves as subsistence farmers who supplemented their surplus crops with hunting. They sought to avoid above all becoming wage laborers tied to an industrial workday despite the pressures of well-meaning Northerners and their former masters.<sup>91</sup> In Louisiana the wrangling for freedom and autonomy on the plantation initiated in 1863 continued, "but the turmoil of occupation and Reconstruction opened up some space for the freed people to gain ground in their struggle with former masters." Once Louisiana planters and former Confederates regained control and Northern resolve had weakened, "strikebreaking was

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<sup>90</sup> Astor, "'I Wanted a Gun,'" 44-46.

<sup>91</sup> Morgan, "Work and Culture," 595-97.



endorsed by the state militia, and waves of repression and disenfranchisement completed the task of silencing workers in the cane.”<sup>92</sup>

In each of these denouements, market society’s definition of American citizenship allowed emancipated blacks freedom from abuse alongside freedom from beneficence. Enlistment was a contract—a legal document which most signed with only their mark—not an organic relationship of mutual obligation. For unskilled laborers like emancipated blacks, Northern social attitudes made their contracts equivalent to the wage laborers of its burgeoning factories and workshops. The laborer’s refusal to work meant breach of contract and merited harsh penalties. The employer’s interest was to enforce discipline in order to realize a profit. Emancipated slaves stepped out of a world in which, although exploitative, abusive, and degrading, they had created a few fragile spheres of self-definition including the family, religion, and labor practice. What they stepped into was one of contractual freedom that offered new alternatives, but still demanded obedience without paternalism’s familiar social practices of obligation and beneficence.<sup>93</sup>

Still, the Fort Jackson’s mutineers’ stand against exploitation led to the dismissal into civilian life of their tormenter, burdened with dishonorable conduct in a society sensitive to a man’s reputation. A small positive repercussion also resulted when General Banks definitively decreed in February 1864 that whipping was absolutely outlawed for

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<sup>92</sup> Rebecca J. Scott, “Defining the Boundaries of Freedom in the World of Cane: Cuba, Brazil, and Louisiana After Emancipation,” *American Historical Review* 99, no. 1 (February 1994), 100 (77-102).

<sup>93</sup> John Lauritz Larson, *The Market Revolution in America: Liberty, Ambition, and the Eclipse of the Common Good* (New York: Cambridge University Press, 2009), 162-67; Amy Dru Stanley, *From Bondage to Contract: Wage Labor, Marriage, and the Market in the Age of Slave Emancipation* (New York: Cambridge University Press, 1998), 123-30; Eric Foner, *Nothing But Freedom: Emancipation and Its Legacy*, rev. ed. (1983; repr., Baton Rouge: Louisiana State University Press, 2007), 86-90.

plantation laborers. Coming so soon after the mutiny of the 4<sup>th</sup> Infantry, its events and their complaint were fresh in his mind.<sup>94</sup> Kentucky black soldiers' reprieve of an immigrant officer from punishment acknowledged that African Americans had secured a standing in law locally powerful enough to buttress even in a small way the revolutionary social changes promised by emancipation and black enlistment. In other episodes of dissent, formerly enslaved soldiers' actions served as warnings and moments of pause to the Army. Again, these were singular but signal victories. Military protest by the recently emancipated had the greatest significance in its ability to integrate his two worldviews: the enslaved and the freedman. The bond between those two mentalities was the fact of membership in the Army. Soldier status conferred individual and corporate rights under the rule of law. Freedmen-soldiers became local legislators like Anglo citizen-soldiers when they gave vigorous definition to and defense of these rights through military protest actions. In the process, they laid part of the foundation for an African American vision of citizenship grounded in consent and equal treatment. Freedmen-soldiers' protest actions were important, but incomplete, efforts to transform their soldier rights into a citizenship that could achieve equality and preserve their security in the midst of nineteenth-century America's bleak definition of freedom.

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<sup>94</sup> General Orders No. 23, Department of the Gulf, 3 February 1864 in *Congressional Record*, 38<sup>th</sup> Congress, 2<sup>nd</sup> Session, Senate, Executive Documents, No. 29. The language in the orders uses Bank's words of "cruel and unusual punishments" being "interdicted" so in evidence in his correspondence in the mutiny's wake.

CHAPTER VII  
“TRUE FRIENDS OF THE UNION”:  
MUTINY IN THE 20<sup>TH</sup> NEW YORK, THE “TURNER REGIMENT”

A mutiny by the German American 20<sup>th</sup> New York Infantry at the outset of the Battle of Chancellorsville in April 1863 ended in the court-martial of 201 men. This chapter demonstrates how one set of ethnic soldiers employed dissent to protect their soldier rights to membership, state affiliation, and a calendar of service. Throughout, they maintained an acute awareness of their ethnic difference, as evidenced by their reiterations of patriotism. Thus, the Turners’ decision to mutiny is not offered as a consequence of their ethnic identity. Nor is it suggested as evidence of some form of alienation from the cultural mainstream. In fact, it is a piece of evidence that even the Union’s ethnic soldiers had drunk deeply from the font of associational culture. At the same time, these associational ties gave the mutiny’s denouement a distinctive quality because of the regiment’s ethnic identity.

Their voluntary association, the *Turnverein*, was a distinctly German creation. The regiment’s German character and membership flowed from the association. At the same time, the *Turnverein* was organized in the United States along thoroughly American lines in what could be termed ethnic associationalism. The regiment’s moniker, the “United Turner Rifles,” evinced the ties between citizens in association and citizens in uniform. In the months that followed the soldiers’ mutiny, these associational ties generated calls within the ethnic community for a pardon. The campaign orchestrated by the *Turnvereine* leveraged state and party affiliations as it employed the popular

constitutional methods of scrutiny and interposition for a successful appeal. Through the mechanisms of antebellum American self-government present in ethnic associationalism, these German American citizens reaffirmed their basic patriotism and commitment to the Union, just as their members in uniform had done. The mutiny and aftermath of the 20<sup>th</sup> New York mutiny sheds light on the complex interaction between ethnicity, federalism, and associational culture during the Civil War era.

The 100,000 Germans and German Americans living in New York City during the two decades before the outbreak of the war had founded fraternal orders, churches, mutual-aid societies, and a German-language press. Some of the most prominent of these institutions for maintaining ethnic cohesion were the *Turnvereine*: athletic societies for young German males begun in Germany before the 1848 revolutions. They provided intense camaraderie, some exposure to military drill, and practice in sport shooting. More than a mere fraternal association, they were ubiquitous reservoirs of German identity and culture in the immigrant communities. Immigrant Turners committed their stateside *vereine* to the versions of freedom, self-government, and democracy that had motivated them as revolutionaries of 1848. These ideals then drew them into the Free Soil and Republican movements. Unlike the mass of Germans Americans, the national

association endorsed Lincoln in 1860 and the New York *Turnverein* (NYTV) contributed a Republican presidential elector, Sigismund Kaufmann.<sup>1</sup>

Their associational practices also fit perfectly into the American milieu. Founded in 1850, the NYTV acquired a charter of incorporation from the state that, like Anglo associations, gave it legal powers to hold and dispose of property in common. Members drafted and approved a code of by-laws to collect dues, choose officers, and govern their own everyday affairs. New members had to be proposed and approved by current members. In effect broadly similar to the power men in the Anderson Troop had to approve with whom they would serve, the NYTV's admissions process conferred attendance, voting, and speaking rights to those who passed. Crucial powers of self-government included nominating, electing, and petitioning adhered to members as well. Furthermore, in their corporate person as the "general meeting" they could propose

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<sup>1</sup> Stephen D. Engle, "Yankee Dutchmen: Germans, the Union, and the Construction of Wartime Identity," in *Civil War Citizens: Race, Ethnicity, and Identity in America's Bloodiest Conflict* (New York: New York University Press, 2010), 13–14; Ella Lonn, *Foreigners in the Union Army and Navy* (New York: Greenwood Press, 1951), 8, 94–96. Petitions of the Baltimore *Turnverein* and Exhibit "A" (a petition by men in Company A, 20<sup>th</sup> New York, who hailed from Newark), in the papers and proceedings of the general court-martial of Sergeant Gustave Seiffart and two hundred enlisted men of the 20<sup>th</sup> Regiment of New York State Volunteers, NN63, Court-Martial Case Files, RG 153 Records of the Judge Advocate, National Archives, Washington, D.C. (hereafter Seiffart, et al. court-martial); "The Petition of the Undersigned, Citizens and Residents of the State of New York to the President of the United States" (hereafter Petition to the President), n.d., in papers of the Seiffart, et al. court-martial. The petition is 110 sheets long with 25–30 signatures per sheet. Nearly every surname is German and most addresses are within the five boroughs, with a handful from New Jersey. As regards its date of creation, the petition is cited in the Judge Advocate General's opinion to President Lincoln on the case dated 21 July 1863, Seiffart, et al. court-martial. Bertram W. Korn, "Jewish 48'ers in America," *American Jewish Archives* (June 1949): 11 (3–20); Stanley Nadel, "Jewish Race and German Soul in Nineteenth-Century America," *American Jewish History* 77, no. 1, (Sept. 1987): 16–18 (6–26); Erhard Fütterer, *Der Turner Soldat; A Turner Soldier in the Civil War; Germany to Antietam*, C. Eugene Miller and Forrest F. Steinlage, eds. and trans. (Louisville, KY: Calmar, 1988), 38, 110.

changes to their “statutes.”<sup>2</sup> The *Turnersoldaten* emerged from an ethnic association as self-governing as any Anglo’s. Committed Unionists and Republicans, they founded sixteen “Turner” regiments across the North. At the same time, their associational ties simply amplified the desire among German Americans to prove their loyalty. As historian Stephen Engle observes, “Germans considered the war an opportunity to demonstrate their deep affection for their adopted home and its constitutional freedoms.” Many of those freedoms were lived out in their new homeland’s public culture. The Turners of New York City, especially, took these rights and duties seriously enough that their local association and its mechanisms of self-government created the skeleton volunteer regiment and, in cooperation with the state government, directed its organization. Actions such as these across the Union were at the heart of why volunteers—ethnic and Anglo—could justifiably claim the founding rights of membership, state affiliation, and a calendar of service.<sup>3</sup>

Only days after Lincoln’s enlistment proclamation of 14 April 1861, the NYTV’s president submitted appeals for volunteers to the German-language press of the city. One of those who responded was Erhard Futterer, a New York Turner, who explained his enlistment as springing from “a spirit consistent with my origin, experience, ideals, and love for the Union and Constitution that promoted and protected the individual rights of

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<sup>2</sup> Meeting minutes, 15 June 1850, Signature: 3.1, trans. by Nora Probst, General Membership: Minutes (1850-1852), New York *Turnverein*, *Turnverein* Collections, Max Kade Center for German-American Studies, University of Kansas, Lawrence.

<sup>3</sup> Miller and Steinlage, eds., *Der Turner Soldat*, 7, 30-31, 38-39, 44-46, 110-11; Öfele, Martin W., *True Sons of the Republic: European Immigrants in the Union Army* (Westport, CT: Prager, 2008), 48, 57; Kamphoefner and Helbich, eds., *Germans in the Civil War*, 20, 487; Miller and Steinlage, editors’ introduction, *Der Turner Soldat*, 20-21; Engle, “Yankee Dutchmen,” 16–17.

all men.”<sup>4</sup> The *Turnverein* voted on 20 April 1861 to treat “the foundation of a Turner rifle-regiment” as “a matter of the *Verein*.” In a few days more a large crowd attended a public meeting at the *Turnhalle* (“Turner Hall”); 200 members volunteered for the proposed regiment on the spot. Votes were taken to create an organizing committee and within two weeks, they had assembled the 740 men necessary for the state to designate a regiment. In order to feed and clothe these volunteers the *Turnverein* requested German families in the city to provide quarters and it garnered roughly \$3000 in donations for the troops’ subsistence.<sup>5</sup> The Turner societies of Newark, New Jersey and Baltimore, Maryland also each contributed a company.

Under the New York state law of 16 April 1861 asking 30,000 volunteers to serve for two years, the state mustered all the Turners by 29 April.<sup>6</sup> Quartered by state authorities at the Turtle Bay Brewery on 45th Street until their departure from the city, the NYTV facilitated the work of women’s charitable arm the “Turner Sisters” who

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<sup>4</sup> Futterer, *Der Turner Soldat*, 41. Futterer’s memoir must be used with care, however, in understanding the mutiny because he was a member of Company B, which contributed no defendants to the court-martial, and the mutiny is absent from his recollections of service. Thus, his highly ideological motivation should not be imputed to all members of the regiment while at the same time granting that Turners as a movement were indeed highly motivated, patriotic, liberal democrats of their era.

<sup>5</sup> New York Bureau of Military Statistics, *Third Annual Report of the Bureau of Military Records of the State of New York* (Albany: New York Bureau of Military Statistics, 1866), 145–46; meeting minutes, special session, 20 April 1861, Signature: 3.3, trans. Nora Probst, General Membership: Minutes (1858–1864), New York *Turnverein*, *Turnverein* Collections, Max Kade Center for German-American Studies, University of Kansas, Lawrence.

<sup>6</sup> Colonel W. F. Rogers, 21<sup>st</sup> New York Infantry to Adjutant General of the Army Lorenzo Thomas, 13 April 1863, in papers of the Seiffart, et al. court-martial; Anders Henriksson, ed. and trans., “The Narrative of Friedrich Meyer: A German *Freiwilliger* (Volunteer) in the Army of the Potomac,” *Civil War Regiments* 6, no. 2 (April 1996), 1; “Turner Rifles,” *New York Tribune*, 7 May 1861; Special Orders No. 165, 11 May 1861, Adjutant-General’s Office, General Head-Quarters, State of New-York, Albany, in papers of the Seiffart, et al. court-martial. Only with Special Orders No. 165 did they receive official designation as the 20<sup>th</sup> New York.

gathered lint to make bandages and undergarments sufficient for each man.<sup>7</sup> In July, the *Turnverein* authorized financial support to every mother and child of the regiment's soldiers.<sup>8</sup>

When orders arrived for the regiment's deployment, the city's German Americans publicly celebrated their "United Turner Rifles" on 13 June 1861 as they accompanied its march through the streets to waiting transports with a jubilant send-off rivaling those for Anglo regiments. The Turners carried the Stars and Stripes of the United States and the black-red-yellow tricolor of the failed Frankfurt Parliament of 1848. The flags symbolized what the German American Republican, Frederick Kapp, expressed as their "twofold responsibility": to ensure the liberty guaranteed by Union and to demonstrate "that the German ranks among the first champions for liberty" worldwide.<sup>9</sup> Competent former officers from European armies commanded them. Their original colonel, Max Weber, was a former professional officer and a Forty-Eighter from Baden. He was promoted to brigade commander in April 1862 and suffered severe wounds at Antietam. During the mutiny the well-regarded former Swedish officer, Colonel Baron Ernst von Vegesack, commanded. Having fought in the First Danish–Prussian War (1848-51), he

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<sup>7</sup> New York Bureau of Military Statistics, *Third Annual Report of the Bureau of Military Records of the State of New York* (Albany, NY: New York Bureau of Military Statistics, 1866), 146.

<sup>8</sup> Meeting minutes, 9 July 1861, Signature: 5.2, trans. Nora Probst, Board Meetings: Minutes (1858-1864), New York *Turnverein*, *Turnverein* Collections, Max Kade Center for German-American Studies, University of Kansas, Lawrence.

<sup>9</sup> "Testimonial to Colonel Weber of the United German Rifles," *New York Herald* (New York), 1 June 1861; William L. Burton, *Melting Pot Soldiers: The Union's Ethnic Regiments* (New York: Fordham University Press, 1998), 177-78; Öfele, *True Sons*, 57, notes the tricolor flag evoked the 1848 revolutions' devotion to "the fight for personal liberty and national unity."



led from the front at the Seven Days (for which he later won the Medal of Honor) and at Antietam.<sup>10</sup>

The 20th New York began active service with the Union forces that captured Fort Hatteras, North Carolina, and then joined the Army of the Potomac's Seventh Corps for the Peninsula Campaign and the Seven Days Battles. It took significant losses during the Battle of Savage Station on 29 June 1862. The soldiers of the regiment took greatest pride in the part they played in the Battle of Antietam where it suffered 134 casualties during the fighting that raged near the Dunker Church and the Sunken Road on 17 September 1862.<sup>11</sup> Nearly two years after the Turners' departure for the "seat of war," final victory still eluded the Union in the Eastern Theater. Major General Joseph Hooker, the Army of the Potomac's newest commander, believed he had devised a bold plan of campaign to decisively defeat Robert E. Lee's field army near Chancellorsville, Virginia, in April 1863, but according to one of its students, success required moving "before very many more of the short-term troops departed." Hooker allocated a large portion of his field army for his planned right wing envelopment of the Confederates, first held in place by a feint from his left wing.<sup>12</sup>

The Turner Rifles were one of thirty-eight New York regiments—nearly one-third of Hooker's forces—with two-year enlistments ending. On 19 April, Hooker met with

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<sup>10</sup> Öfele, 43, 58; Henriksson, ed. and trans., "Narrative," 21 (n22); Henriksson, ed. and trans., "Narrative," 9-10, 15, 21 (n23).

<sup>11</sup> Frederick Dyer, "20<sup>th</sup> New York Infantry," *Compendium of the War of the Rebellion* (Des Moines, IA: Dyer Publishing Co., 1908); Henriksson, ed. and trans., "Narrative," 3-4, 13-15, 21-22 (n31); testimony of Colonel Ernst von Vegesack, commanding, 20<sup>th</sup> New York Infantry, proceedings of the Seiffart, et al. court-martial.

<sup>12</sup> Stephen W. Sears, *Chancellorsville* (Boston: Houghton Mifflin, 1996), 131-35.

President Lincoln and General-in-Chief Henry W. Halleck to determine exactly when national service ended for these regiments. Expressed in General Order No. 44, they fixed the end of the calendar of service “at the expiration of two years...from the date of their actual muster into the service of the United States.” That still put muster-outs dangerously close to the campaign’s start. The order mandated that the Army’s offer be read to each company because it reiterated the incentives for reenlistment (\$50 bounty and a thirty-day furlough to commence immediately) offered in War Department General Order No. 85, 2 April 1863, the first attempt at rectifying these complications.<sup>13</sup>

The Turner mutineers joined a chorus of Anglo New York regiments that disputed the Army’s calculations of their calendar of service. In 1861, the constituent companies of particular regiments had mustered in for varying lengths of national service.

Acknowledging the national government’s requests in August 1861 to retain three-month companies, the state had extended them by fiat for two years of Federal service.

Among the dissatisfied Anglo regiments were the 21<sup>st</sup> and the 26<sup>th</sup> New York—raised around Buffalo and Oneida, respectively—in the Army of the Potomac’s First Corps.

Writing in April 1863, Colonel W. F. Rogers of the “First Buffalo” wrote to the Adjutant General of the Army that they had been mustered by company into state service for two-years between 1 and 10 May 1861, formally assembled as a regiment, then accepted for three months of Federal service on 20 May 1861. On 2 August 1861, Special Order No.

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<sup>13</sup> General Order No. 44, Army of the Potomac, 20 April 1863, *The War of the Rebellion: A Compilation of the Official Records of the Union and Confederate Armies*, Series I, Vol. XXV, Part II, 233-34 (hereafter *OR* and all references are to Series I unless noted otherwise); see also Sears, 103-04. This action was itself a presumption by the national government that it could resolve the question on its own authority. If anything, this would have been an arena of concurrent constitutional powers.

324 of the State of New York directed they would continue in Union service for the remainder of their state enlistment. The men had duly served those two years, but Rogers emphasized that no additional muster had been called for the extension of their service to the national government. He claimed their two-year enlistment must expire based on the date of their original muster into state service; no later than 10 May 1863. Likewise, one hundred men of the 26<sup>th</sup> (“Second Oneida”) refused marching orders on 28 April 1863, were put under guard, forced to give up their rifles, and marched in the rear of their brigade. Even after a second chance to obey, very few did, and close to thirty comrades joined them the next day.<sup>14</sup>

In these same turbulent days, the 20<sup>th</sup> New York formed part of the Army of the Potomac’s Sixth Corps. Hooker arrayed these troops under the command of Major General John Sedgwick for an intended feint at Fredericksburg. It would keep the Confederates in place while his smashing blow landed from the right at Chancellorsville.<sup>15</sup> Like their Anglo comrades, the men of the 20<sup>th</sup> New York held the same convictions about their calendar of service. On 29 April 1863—two years to the

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<sup>14</sup> Colonel W. F. Rogers, 21<sup>st</sup> New York, to Adjutant General of the United States Army Lorenzo Thomas, 13 April 1863, in papers of the Seiffart, et al. court-martial; Paul Taylor, *Glory Was Not Their Companion: The Twenty-Sixth New York Volunteer Infantry in the Civil War* (Jefferson, NC: McFarland, 2005), 112-15. Gary W. Gallagher, *The Confederate War* (Cambridge: Harvard University Press, 1997), 32, observes that on the other side of the hill, desertion ballooned in 1862 Virginia among soldiers angry that the Conscription Act had extended their length of service.

<sup>15</sup> Philip W. Parsons, *The Union Sixth Army Corps in the Chancellorsville Campaign: A Study of the Engagements of Second Fredericksburg, Salem Church, and Banks’s Ford, May 3-4, 1863* (Jefferson, NC: McFarland, 2006), 5-19; James M. McPherson, *Battle Cry of Freedom: The Civil War Era* (New York: Oxford University Press, 1988), 639–40.

day of their muster into state service—201 men stacked their arms in protest and refused to do any further duty.<sup>16</sup>

The Army's response was swift. A general court-martial on 1 May 1863 tried the participants for mutiny "in the face of the enemy." Colonel von Vegesack attested that the 20<sup>th</sup> New York was part of the Third Brigade concentrated in a forest about 1.5 miles from the Rappahannock River in column by divisions on 29 April. Firing was heard across the river and that it was well known among the men that action was imminent.<sup>17</sup> Even without such added ignominy, a conviction for mutiny carried the maximum sentence of death according to the seventh Article of War. Yet, the court sentenced them instead to the loss of all pay and benefits, dishonorable discharges, and hard labor for the duration of the war.<sup>18</sup> In the Army's view, forgoing capital punishment in spite of the enemy's presence was sufficient mercy for misguided, but not disloyal, soldiers.

Conscious of their ethnic identity the defendants had made sure to present themselves as such in their written statements to the court. They were loyal citizens in uniform who had "served faithfully and honestly." The root cause of the mutiny, however, arose from the same right to determine the calendar of service claimed by the Anglo regiments of the Empire State. In the case of the 20<sup>th</sup> New York, all of its companies had been mustered into state service for two years commencing 29 April

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<sup>16</sup> Testimony of Lieutenant Albert Hottenroth, 20<sup>th</sup> New York, proceedings of the Seiffart, et al. court-martial.

<sup>17</sup> *OR*, XXV, I, 165, 190; charges and specifications, Colonel Ernst von Vegesack testimony, 20<sup>th</sup> New York, proceedings of the Seiffart, et al. court-martial.

<sup>18</sup> Verdict and sentence, proceedings of the Seiffart, et al. court-martial. The division commander, Major General A. P. Howe, approved the proceedings and the sentence.

1861. For reasons that remain unclear, on 6 May 1861 companies A, B, C, D, and E were mustered for *three months* of national service while F, G, H, I, and K signed for *two years*. At the conclusion of the three-months service in August 1861, however, there had not been another muster to continue the first five companies in Federal service. Instead, the extension of their national enlistments had been accomplished by fiat with Special Orders No. 326 from the state Adjutant General, dated 2 August 1861. Like the orders for the Anglo regiments, it decreed that they would remain in national service until the expiration of their two-year state enlistment. Even at that time, the three-month companies had briefly refused pay (itself a species of mutiny according to the Army) before complying with the New York state order, but the sources give no indication as to what led the men to acquiesce.<sup>19</sup>

The mutineers, however, never claimed that New York had no right to transfer their two-year enlistments to the national government after an initial muster-in for three months of Union service. Their point of contention was that *beyond 29 April 1863* the state “was not justified to transfer” them for United States service. In a telling example of the importance of state affiliation—even its supremacy—the Turners argued that whatever portion of their two years remained it must date from their New York, not their

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<sup>19</sup> Judge Advocate General Joseph Holt to Secretary of War Stanton, 21 July 1863, papers of the Seiffart, et al. court-martial; testimony of Lieutenant Colonel Englebert Schnepff, 20<sup>th</sup> New York Infantry, proceedings of the Seiffart, et al. court-martial; Special Orders No. 326, 2 August 1861, Adjutant-General’s Office, General Head-Quarters, State of New-York, Albany, in papers of the Seiffart, et al. court-martial.

Federal muster. With that conviction firmly in mind, they explained to the court, “Our term has expired, we ask you for the kindness to let us have our discharge.”<sup>20</sup>

The makeup of the mutiny’s participants reinforces this point and differentiates the 20<sup>th</sup> New York’s protest from their Anglo counterparts. More than half of the mutineers (139) came from the companies mustered for two years of national service in 1861. If the basic grievance of the *Turnersoldaten* had been primarily in the lack of a proper muster to set a contractual date for the beginning of their national service (the complaint of the 21<sup>st</sup> New York’s colonel), the majority of mutineers should have come from the first five companies. What appears to have mattered most to the Turners was the chronological period of two years—two years in uniform and two years away from their families—whether for the state or the nation. In addition, this tied the right of a calendar of service back to the basic associational right of membership. The Turner soldiers had organized themselves in companies in 1861 to meet a threat to their lives as citizens of state and nation. According to the New York laws under which they organized, they agreed to become citizens in uniform for a two-year period. As a parent of the soldiers argued to President Lincoln, “A man makes a contract to serve *2 years*, he serves same faithfully and then believes himself free from that contract.”<sup>21</sup>

The Turners’ grounds for mutiny placed them squarely in the American citizen-soldier tradition, but it is a tradition that cannot be encompassed solely within the

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<sup>20</sup> Exhibits “A” (statement by the “undersigned members of Company A,” Germans of Newark, NJ) and “B” (statement by “the undersigned members of the different companies” of the 20<sup>th</sup> New York), proceedings of the Seiffart, et al. court-martial.

<sup>21</sup> Ricardo A. Herrera, “Self-Governance and the American Citizen as Soldier, 1775–1861,” *Journal of Military History* 65, no. 1 (January 2001), 31–32; Joseph Solomon to President Abraham Lincoln, 28 July 1863, papers of the Seiffart, et al. court-martial, emphasis added.

shorthand of contract. Their associational affiliation made the regiment especially close to the New York German American community. In their letters, soldiers and their families revealed that expectations had been raised at home for the regiment to return at the end of April. As a nexus for community information the *Turnvereine* broadcast these misplaced hopes. The Newark Turners explained that “joyful excitement” prevailed over the “return of husbands, brothers, and sons...expected by their families.” The NYTV’s meeting minutes for April reveal detailed plans arrange for meeting the returning soldiers, conducting a march to the *Turnhalle*, where a homecoming celebration would fête them with “carts” of beer, two hired bands, and *a capella* singing by the Society’s *liedertafel*.<sup>22</sup>

When these hopes soured the associations and the ethnic community both directed petitions and letters to government on behalf of the *Turnersoldaten*. Their arguments spoke to soldier rights of membership, state affiliation, and the calendar of service. In these appeals, utterances of patriotic loyalty were stock in trade. One motive was to link the plight of the Turner soldiers through their German identity with Lincoln’s desire to rally the support of German America. A second reason was the particular circumstances following the battle. The Chancellorsville debacle had aroused a renewed atmosphere of nativism in the Anglo press. German regiments in the Army of the Potomac’s Eleventh Corps were excoriated for the retreat on the Union right on 2 May that turned into a

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<sup>22</sup> Petition of the Newark, NJ *Turnverein*, [May 1863], to President Abraham Lincoln, in papers and proceedings of Seiffart, et al. court-martial; Meeting minutes, 14 April, 21 April, 28 April 1863, Signature: 5.2, trans. Nora Probst, Board Meetings: Minutes (1858-1864), New York *Turnverein*, *Turnverein* Collections, Max Kade Center for German-American Studies, University of Kansas, Lawrence.

rout.<sup>23</sup> The trial took place only the day before and news of the verdict arrived home in the weeks during which the mainstream press were the most derisive of Germans' as soldiers and a loyal population. In response, therefore, the mutineers' various defenders uniformly made ethnicity concomitant with patriotic duty and party loyalty to both blunt nativism and curry administration favor.

Thus, the New York state *Turnerbund* noted their soldiers were "Germans of New York" state who "sprang to arms in the front rank" of 1861's volunteers out of patriotism and party loyalty. The Newark *Turnverein* were "appointed by the loyal Germans" of that city and identified themselves as "true friends of the Union." Considering it a "case deeply affecting many of our fellow-citizens," they petitioned the president for clemency rather than condoning "the extreme hardship of the Law." The forty men who remained at home to sustain the "patriotic Turner association" of Baltimore hoped to offer President Lincoln some "excusatory facts" about their associates in uniform in consideration of "the German population loyal and faithful to the Government." That loyalty had been displayed as early as 18 April 1861 when the bulk of the Baltimore Turners had enlisted, traveled to Washington, and protected government installations even as mobs in the Baltimore riots destroyed their own meeting hall. They now asked the president to bestow a pardon on their "misguided unhappy friends" as a byproduct of the Baltimore Turners "performing truly our duty." The mutineers' "mistaken" ideas

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<sup>23</sup> Christian B. Keller, *Chancellorsville and the Germans: Nativism, Ethnicity, and Civil War Memory* (New York: Fordham University Press, 2007), 75-122. He also argues, "Anglo American journalists had made such a stark and negative distinction between Americans and Germans" in the aftermath of Chancellorsville that the German American press asserted that Anglo elements of the Eleventh Corps were most responsible for the retreat while espousing with renewed vigor that Germans Americans' possessed superior patriotism, *ibid.*, 114.



about their enlistment termination only stemmed from their lack of “authorized information” to accurately determine their calendar of service and thus be fully apprised of their rights connected with military service.<sup>24</sup>

Germans not only took action within their associational confines. Their dismay about the treatment of their countrymen spilled over into a community-wide demonstration of solidarity aimed at intensifying the remonstrances already directed at the national government. Three thousand German Americans of New York City submitted their own petition to President Lincoln. Leading off with proclamations of loyalty, they exalted their Turner soldiers as sons of “the community capable of furnishing the best of material for the army of the Union.” The citizens’ petition understood the regiment’s records of meritorious service and combat loss as a reflection of such refined patriotism. Their sons and fathers had “voluntarily assumed” military service like other loyal citizens to the United States, but had spent the war “bleeding and dying for the country of *their choice*.”<sup>25</sup> The petitioners linked the immigrant’s freely given loyalty to the United States with membership in the Union Army. This elevated the immigrant’s patriotism and citizenship above that of the native-born. The Newark Turners had likewise argued that, “hardly have men enlisted for this war, animated by a spirit and

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<sup>24</sup> Petition by the Turner Associations of New York to the President of the United States, May 1863; petition by the Newark, New Jersey *Turnverein* to President Abraham Lincoln, May 1863; the Turner Association of Baltimore [Maryland], “To the President of the United States,” 15 June 1863, all in papers of the Seiffart, et al. court-martial.

<sup>25</sup> Petition to the President by the Germans of New York City, Seyforth, et al. court-martial, emphasis added. The German newspaper *Washingtoner Intelligenzblatt* wrote on 7 July 1860 that Anglo Americans were “demoralized physically and spiritually....They are unworthy of freedom, the inheritance of their fathers....To us immigrants it is reserved to save this land from destruction. And we will do it!” quoted in Öfele, *True Friends*, 34.

inflamed by a purer Patriotism” than German Americans in uniform.<sup>26</sup> All of these protestations of loyalty were intended to assure the president that he could trust the motives of citizen-soldiers who were “tenacious of what they deemed to be their rights.” Disputed muster-out dates and complaints about officers might be “insubordination,” but they did not necessitate the full force of military punishment. Rather, they presented the Turners’ soldier rights as legitimate and believed their actions in defense of them merited clemency because of the soldiers’ demonstrated loyalty to the government and the nation.

“Appointed by the Germans of New York,” the prominent German Republicans Frederick Kapp and Sigismund Kaufmann authored their own appeal Secretary of War Edwin Stanton for clemency. They personify the nexus of German ethnic identity, associational membership, and Republican loyalty that characterized the *Turnvereine*. Explicitly anti-slavery, Kapp was one of the earliest German members of the Republican Party. A respected writer and historian, he had collaborated with Carl Schurz to rally New York’s Germans to the party in the 1860 election. Kaufmann helped found the New York City *Turnverein* and was instrumental in directing the national Turner convention to officially denounce slavery in 1855. A Jewish Forty-Eighter and socialist, he

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<sup>26</sup> Petition by the *Turnverein* of Newark, NJ, to President Abraham Lincoln, May 1863, papers of the Seyforth, et al. court-martial.

remained an influential anti-slavery voice in New York with claims on the Republican patronage network.<sup>27</sup>

Stanton's German Republican correspondents' began by using the political context of May 1863 to the mutineers' advantage. Patriotic German American citizens were at that very moment sensitive to the revived "prejudices with which native Americans regard them" as "foreigners." They might readily "misconstrue" the mutineers' sentence as "one of uncalled for severity," especially in light of the regiment's previous service. In fact, like "the majority of their countrymen," the *Turnersoldaten* felt "deeply attached to the Institutions."<sup>28</sup>

"Institution" in its meaning of "an established custom" first gained currency in America just after the adoption of the Constitution and by the 1830s was increasingly used in reference to the system of slavery.<sup>29</sup> Kapp and Kauffman's use of the word harmonizes with the definition given by German American jurist and philosopher, Francis Lieber. According to Lieber,

An institution is a system or body of usages, laws, or regulations of extensive and recurring operation, containing within itself an organism by which it effects its own independent action, continuance, and generally its own farther development. The idea of an institution implies a degree of

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<sup>27</sup> Friedrich Kapp and Sigismund Kaufmann to Secretary of War Edwin M. Stanton, 22 May 1863, papers of the Seiffart, et al. court-martial. Two of Kapp's important works were *History of Slavery in the United States of America* (1861) and *German Emigration to America* (1867). He died in Berlin in 1884 and his son, Wolfgang, gave his name to the failed *putsch* of 1920. See, Frederick Kapp obituary, *New York Times* (New York), 31 October 1884; Bertram W. Korn, "Jewish 48'ers in America," *American Jewish Archives* (June 1949): 11; Nadel, "Jewish Race and German Soul," 16-18; Miller and Steinlage, eds., *Der Turner Soldat*, 38, 110.

<sup>28</sup> Friedrich Kapp and Sigismund Kaufmann to Secretary of War Edwin M. Stanton, 22 May 1863, papers of the Seiffart, et al. court-martial.

<sup>29</sup> Richard H. Thornton, *An American Glossary: Being an Attempt to Illustrate Certain Americanisms Upon Historical Principles* (New York: Frederick Ungar, 1962), 1: 480-83.

self-government. Laws act through human agents, and these are, in the case of institutions, their officers or members.<sup>30</sup>

Thus, the soldiers' patriotism flowed from their participation in the country's institutions of self-government, especially their *Turnvereine*.

Once inside the institution of the Army, they became "tenacious of what they deemed to be their rights." These rights derived from their status as soldiers through their muster-in "first prescribed by the Legislature of New York." Any authority of the "general Government" over them resulted from its "understanding with the State to which they *belonged*." The citizen's soldier status depended first on his state citizenship, that in turn granted him rights such as a calendar of service. Kapp and Kauffman were willing to admit, unlike the mutineers, the various Turner associations, and the citizen petitioners, that the 6 May muster-out date was valid and left matters at the *Turnersoldaten* simply "supposing honestly" that their term expired "on the date of the first enlistment." The two German leaders put their confidence in securing a pardon not the justifications of soldier rights, but rather on the loyalty to party and nation of the volunteers and the ethnic community. Hence their juxtaposing Germans' bona fide adoption of American political values against the cries of nativism. In light of these political realities, they believed Stanton would arrange a pardon from the president in order to have "a most beneficial effect upon the further enlistment of the German element into the service." It would counter German Americans' fears of nativism and

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<sup>30</sup> Francis Lieber, *On Civil Liberty and Self-Government* (Philadelphia: J. B. Lippincott, 1853), 324–25. On Lieber's influence see Stephen Sawyer and William J. Novak, "Emancipation and the Creation of Modern Liberal States in America and France," *Journal of the Civil War Era* 3, no. 4 (December 2013), 485–87.

reinforce their faith in the institutions of America's associational politics. Increased German American support of the Union and the party would be assured.<sup>31</sup>

To further their efforts, Kapp and Kauffman used the ties of party to call on the assistance of former Republican governor of New York and sitting U.S. Senator, Edwin Morgan. Ironically, Morgan had collaborated with the Lincoln government and the Army in 1861 to extend his New York regiments' calendars of service without a second muster-in while governor. Now his cover letter to Stanton brought together ethnic solidarity, party loyalty, and state affiliation to deliver a potent dose of interposition on behalf of the Turner mutineers. Forwarding their letter "unconditionally," Morgan described the two men as "influential with soldiers of their own nativity" and he reminded Stanton in closing, "Both gentlemen were presidential electors in 1860." Intervening as one of their state's elected representatives, he linked the continued loyal service of men who were his constituents, his fellow countrymen, and his party colleagues with a just disposition from their national political leaders. Pardoning the Turners would "create a good feeling that will result in great advantage to the Government with this large class of our soldiers."<sup>32</sup>

Two additional German leaders from the national *Turnerbund*, the American umbrella organization of the local *Turnvereine*, instructed Secretary of the Treasury

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<sup>31</sup> Friedrich Kapp and Sigismund Kaufmann to Secretary of War Edwin M. Stanton, 22 May 1863, papers of the Seiffart, et al. court-martial.

<sup>32</sup> Edwin D. Morgan to Secretary of War Edwin M. Stanton, 22 May 1863, papers of the Seiffart, et al. court-martial. Morgan was a banker and wealthy merchant in the conservative wing of the Republican Party, chairman of the Republican National Committee until 1864, and headed the Union Executive Committee to reelect Lincoln in 1864, see James A. Rawley, *Edwin D. Morgan, 1811-1883: Merchant in Politics* (New York: Columbia University Press, 1955), and "Lincoln and Governor Morgan," *Abraham Lincoln Quarterly*, Vol. 6, No. 5 (March 1961): 292-93.

Salmon P. Chase on 16 June 1863. Reinhold Solger and Charles F. Schmidt made a case for the justice of the men's rights to the calendar of service, however. The men never received clear "instruction" in the transferring of their service, which besides there "had been no swearing in" on 6 May. Solger and Schmidt reiterated the necessity of the muster being the only definitive way for the "citizens having freely volunteered" to know when their martial obligations began and ended. Without it, New York had "no right" to "cede them to the U.S. for any term beyond their oath to the state" which had commenced with a proper mustering in. Echoing previous petitioners, Solger and Schmidt explained that these Turner soldiers had "come forth first of all" in 1861. They had not broken faith, rather "the U.S. had not kept faith with them" through either a proper second muster or releasing them on the date of their state muster.<sup>33</sup>

During May and June 1863, therefore, the mutineers and their relations at home appealed for clemency from the national government. The *Turnvereine*'s contribution to *American* associational culture aided their cooperation immensely. Furthermore, their appeals stood on claims of soldier rights familiar to any Anglo: membership in a state-affiliated regiment being a shield against centralized authority, and a basis for popular constitutional defenses of their calendar of service. At the same time, these markers of an American political consciousness worked in harmony with their ethnic identity. True, they deemed it wise to proclaim their loyalty brashly even as they suggested that as patriots of choice, not birth, their desire for justice was as pure as the native's. These German Americans from three eastern cities, under the auspices of their *Turnvereine*, in

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<sup>33</sup> Reinhold Solger and Charles F. Schmidt, "on the part of the Turner Associations & others," to Secretary of the Treasury Salmon P. Chase, 16 June 1863 in the papers of the Seiffart, et al. court-martial.

fact used their ethnicity as a gambit for gaining government and party recognition of their claims.

Once confined, the men made no further demonstration against military authority. Rather their “prompt and cheerful compliance with orders” convinced Provost Marshal W. R. Patrick that “the remainder of their sentence should be remitted.”<sup>34</sup> Stanton requested an opinion from Judge Advocate General Joseph Holt on the clemency request.<sup>35</sup> Holt acknowledged the confusion regarding enlistment contracts, but averred “one of the gravest crimes known to the service” had threatened “military discipline.” A pardon would suggest that “the opinions of enlisted men were allowed to determine” the force of military authority.<sup>36</sup> Nevertheless, the president went ahead and on 10 August 1863 pardoned the Turners “for the *unexecuted* part of their sentence”—which unwittingly made it necessary for them to seek final justice forty years later. The provost

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<sup>34</sup> W. R. Patrick, Provost Marshal General, Army of the Potomac, to R. Solger, Esq., Department of the Treasury, Washington, D.C., 16 July 1863, papers of the Seiffart, et al. court-martial.

<sup>35</sup> Stanton to Morgan, 23 May 1863, papers of the Seiffart, et al. court-martial, relayed to Morgan his ignorance of any recent courts-martial, but assured him “the case shall receive a prompt disposition.” President Lincoln also directed the judge advocate general to investigate the case on 17 June 1863 after reviewing a letter from the New York Turner Association to Secretary of the Treasury Salmon P. Chase; Endorsement of Abraham Lincoln, 17 June 1863, on Solger and Schmidt to Chase, 16 June 1863, papers of the Seiffart, et al. court-martial.

<sup>36</sup> Opinion of Judge Advocate General Joseph Holt to Secretary of War Edwin M. Stanton, 21 July 1863, papers of the Seiffart, et al. court-martial. Holt’s opinion on the mutiny stands in contrast to his recommendation for clemency in the case of Pennsylvania soldier who deserted to care for his ill father after a pass was not granted him. Holt’s biographer cites it as an example of his capacity to “be flexible when it came to analyzing the circumstances that lay behind a charge of disobedience of orders,” Elizabeth P. Leonard, *Lincoln’s Forgotten Ally, Judge Advocate General Joseph Holt of Kentucky* (Chapel Hill: University of North Carolina Press, 2011), 172-175.

marshal released the 201 mutineers from custody on 31 August 1863 and furnished them transportation home.<sup>37</sup>

The scale and vitality of the response by New York's German American community in defense of its soldiers depended on ethnic cohesion and pride for its effect. This returns the case to its point of origin in the experience of ethnic soldiers. Those who felt compelled to prove their loyalty through military service also demonstrated they should fully participate as citizens alongside native-born Americans. In their minds, volitional allegiance had as much, if not more, claim to loyalty as birthright citizenship. Faithful military service was the test. Yet, the pursuit of faithful service could not be allowed to threaten fundamental rights that inhered through membership in the Army. The Turner mutineers claimed particular founding and procedural rights, because they were New Yorkers and volunteers. Their ethnic identity gave them no special claim to rights. It functioned only as a ground for associational self-government. The volunteers' military service took shape in the context of the *Turnverein* and the *Turnverein* was the most vital organ of defending their rights of soldier membership.

In this regard, the mutiny and its aftermath reflected mid-Century America's confidence in the fundamentals of the compound republic; encapsulated by two scholars as its "older ideals, namely localism, self-government, and the public ordering principles of common law." In their view, "The Civil War and Emancipation forged a new

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<sup>37</sup> Endorsement of Lincoln originally attached to handwritten copy of the court-martial proceedings, 10 August 1863; his language was duly included in the official order enforcing the pardon, Special Orders No. 360, Adjutant General's Office, War Department, 13 August 1863; both in papers of the Seiffart, et al. court-martial; few of the *Turnersoldaten* reenlisted; most resumed their civilian pursuits for the remainder of the war. Miller and Steinlage, eds., *Der Turner Soldat*, 101.



constitutional relationship between the individual and the state in which unmistakable increases in central state power accompanied extensions of the idea of national civil rights.”<sup>38</sup> Yet mutinies by Anglo and ethnic soldiers seem to be moments when Northern citizens in uniforms resisted the tides of change and clung to the rights and protections carved out through associational membership, state affiliation, and soldier rights.

At the same time, the mutiny makes plain how the Civil War served to raise the stakes and importance of national citizenship through the demands placed on the unitary nation-state (e.g., the resort to conscription) and the claims it could place on the resources and citizens of the constituent states.

Indeed, the cause of disagreement that provoked the mutiny was the national government’s assertion that it had a superior claim on state volunteers’ time in uniform. Furthermore, any discrepancies with state promulgations could be expediently wiped out by decree. In a pointed challenge to such centralizing tendencies, the men of the 20<sup>th</sup> New York and their citizen allies called on associationalism to direct appeals and petitions just as had the 15<sup>th</sup> Pennsylvania Cavalry. In ways even more impressive than the ad hoc public meetings of the Anderson Cavalry’s hometown allies, however, standing cooperative institutions like the *Turnvereine* served as vital conduits of individual and collective demands for justice on the behalf of ethnic citizens in uniform. Associational ties facilitated the personal interventions of high-profile German American leaders—within the Republican Party and in the Turner movement—directly with officials of the national government. The *Turnvereine*’s associational solidarity

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<sup>38</sup> Sawyer and Novak, “Emancipation and the Creation of Modern Liberal States in America and France,” 472–73.

conveyed the concurrent assistance of Republican Party ties to the German mutineers, in this case by encouraging national officials to remedy the Army's decision. Furthermore, the mutineers used the ties of party to enhance their state affiliation and thereby garner the unqualified support of one of New York's senators.

These were the multifaceted aspects of ethnic citizenship in associational culture. It made it possible for the Turners' sympathizers to play persuasively on the party's desire for the German vote. In this respect, associationalism and ethnicity came together in a particularly potent call for interposition. Ethnic associationalism leveraged state and party affiliation to instruct the legislative branch to require action from the executive. Ethnic associationalism also served to demonstrate that German Americans could be loyal citizens and party members even as they opposed the centralizing tendencies of national authority during the Civil War. In these ways, ethnic Union soldiers inhabited a space on the continuum of soldier rights between Anglos and freedmen. Like Anglos, they acted in order to protect citizen rights of self-government threatened by military service. At the same time, they used their mutiny as a moment to reiterate their loyalty to the Union even as they articulated more precisely what rights their citizenship should entail.

***Postscript: The Rehabilitation of the Turner Mutineers and the Evaporation of Ethnic Associationalism***

Nearly three years after the events of the mutiny, a number of the participants petitioned Secretary of War Stanton to reverse their dishonorable discharge and make them eligible for their lost pay and bounties. They claimed that on the day of the mutiny several officers had stated that, "having served their full time" the men "were not

obliged to...participate in the attack unless they so wished and that it was entirely a voluntary matter with them to do so or not.” They had trusted their officers’ advice because many soldiers had “but a very limited knowledge of the English language.” Promises to loved ones “to whom they had written saying when they would be at home” also influenced their decisions. They claimed this dissent to be “right and justifiable and not breaking any law civil or military, but only making a choice that they had a perfect right to do.” In fact, if they had know that their choice would have led to court-martial for mutiny “they would most cheerfully have fallen in and marched to the attack.”<sup>39</sup>

Although General Ulysses S. Grant recommended clearing the men of all wrongdoing in 1866, the War Department would not commute sentences already executed in 1863. The dissenters did not secure honorable discharges until the passage of a special 1905 law. From this vantage point, the mutiny and its postwar legacy tell another complex story that demonstrates how ethnic communities leveraged their ethnic identity provisionally—setting it aside when politically expedient and harnessing it when it could amplify their claims to full membership and participation in the body politic.

In 1863, Republican political alliances and ethnic associationalism had functioned in synergy to overturn the court-martial’s verdict. Historians have typically portrayed postwar German Americans shifting towards cultural pluralism: outright resistance to Americanization by promoting the German language along with unique cultural and folk traditions while claiming membership in the nation due to costly support of the Union war effort which confirmed antebellum declarations of unadulterated patriotism.

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<sup>39</sup> Petition by Members of the 20<sup>th</sup> New York to Secretary of War Edwin M. Stanton, 3 March 1866, papers of the Seiffart, et al. court-martial.

Criticism in the Anglo press during the Civil War of the German hero Franz Sigel and of German soldiers' bravery, nevertheless, left a lasting sensitivity to revivals of nativism in mainstream society.<sup>40</sup> The Turner veterans' campaign to obtain honorable discharges fits this paradigm only initially. Before the war's end some of the pardoned soldiers' inquired about back pay due them while under provost guard, but these entreaties fell on deaf ears. The War Department explained they had nothing forthcoming: the dishonorable discharges, enforced at their court-martial, fell outside the pardon for their unexecuted sentence.<sup>41</sup> Undaunted, in March 1866 Turner soldiers petitioned Stanton and general of the armies, Lieutenant General Ulysses S. Grant, to reverse the decision.<sup>42</sup>

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<sup>40</sup> Kathleen Neils Conzen, "German Americans and the Invention of Ethnicity" in Frank Trommler and Joseph McVeigh, eds., *America and the Germans: An Assessment of a Three-Hundred Year History*, vol. 1: *Immigration, Language, Ethnicity* (Philadelphia: University of Pennsylvania Press, 1985), 139-40; Keller, *Chancellorsville and the Germans*, 137-67; Margaret Creighton, *The Colors of Courage: Gettysburg's Forgotten History* (Cambridge, MA: Basic Books, 2005), 173. On Sigel and German American identity, see Stephen Engle, *Yankee Dutchman: The Life of Franz Sigel* (Fayetteville: University of Arkansas Press, 1993), 229-32, Engle, "Yankee Dutchmen," 38-40; Burton, *Melting Pot Soldiers*, 211; Öfele, *True Sons*, 137.

<sup>41</sup> As an example, see W & J. E. Fitch & Co., Attorneys at Law on behalf of Henry Hahne to Stanton, 18 March 1865; "by the approval of the proceedings, and the confirmation of the sentence in May 1863" according to Major A. A. Hosmer, Judge Advocate in absence of Judge Advocate General Holt to Stanton, 28 April 1865, endorsement on Fitch letter; both in papers of the Seiffart, et al. court-martial.

<sup>42</sup> In 1866 they claimed, having been among the first wave of volunteers "to preserve the integrity of their adopted country" and given three months in defense of the nation, they "consented" for a full two years of Federal service. The veterans avoided the legal complexities of the transfer of their contracts. After recapitulating the circumstances leading to the court-martial, they emphasized they had been simply released from the custody of the provost marshal by order of the President. They claimed they should be "honorably discharged" from United States service "to receive their arrears of pay and bounty," petition by members of the 20<sup>th</sup> New York to Secretary of War Edwin M. Stanton, n.d., papers of the Seiffart, et al. court-martial. An endorsement on the petition by the adjutant general of the Army referring the matter to the judge advocate general is dated 6 March 1866. The 9 March 1866 petition to General Grant is noted in House Report No. 2257, 27 May 1902, 57<sup>th</sup> Congress, 1<sup>st</sup> Session, *United States Serial Set* (Washington, D.C.: Government Printing Office, 1902), 8:4 (hereafter, House Report No. 2257).

As in 1863, the Turners once again convinced the War Department of their case; a special order of 4 April 1866 honorably mustered them out and granted their back pay.<sup>43</sup>

As some Union veterans approached old age, they stepped into the debates in the late 1880s over proper pensions for them and their dependents. They cheered Congress in 1890 for enacting a new system of service pensions.<sup>44</sup> In response to these developments, the 20<sup>th</sup> New York's dissenters or their widows and dependents queried the government about their eligibility.<sup>45</sup> The War Department responded during the nineties that the 1866 order had attempted to change the status of men who "were beyond the reach of its influence...having been separated from the military service" with "no nearer or other relation to that service than civilians who never had been in the Army." Ironically, here the principles of contract regarding length of service on which the men had based their dissent seemed to deny any eligibility for pensions, even under the 1890 law's generous stipulations.<sup>46</sup>

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<sup>43</sup> Special Orders No. 152, War Department, Adjutant General's Office, Washington, D.C. in House Report No. 2257, 4.

<sup>44</sup> The act passed 27 June 1890 considered only the veteran's honorable discharge, whether he or his widow reached a specified age, and possessing some disability that made work impossible (though it did not have to be from military service). The original pension law passed in 1862 only covered veterans injured or disabled in military service, their widows, and their dependents, William H. Glasson, *Federal Military Pensions in the United States* (New York: Oxford University Press, American Branch, 1918), 125-26; Amy E. Holmes, "Widows and the Civil War Pension System" in Maris Vinovskis, ed., *Toward a Social History of the American Civil War: Exploratory Essays* (New York: Cambridge University Press, 1990), 171-74; Theda Skocpol, *Protecting Soldiers and Mothers: The Political Origins of Social Policy in the United States* (Cambridge: Harvard University Press, 1992), 106-07, 132-35.

<sup>45</sup> For example, Senator John H. Mitchell took up the case of Philip Weber's widow in 1895. Mitchell was a Republican senator from Oregon and Weber a citizen of the state, House Report No. 2257, 5.

<sup>46</sup> Colonel F. C. Ainsworth, Chief Record and Pension Office to Senator John H. Mitchell, 30 April 1895, in House Report No. 2257, 4. Secretary of War Daniel S. Lamont confirmed the Judge Advocate's opinion and directed Ainsworth to inform the veterans of the Department's decision, of which this letter was used in the House report as a representative example.

The national effort for a generous pension bill had enlisted the politically influential Union veteran organization, the Grand Army of the Republic (G. A. R.), and its allies in the Republican Party. The Turner veterans relied on support from those quarters—with no visible role for the German American community—in requesting relief through congressional legislation from their dishonorable discharges.<sup>47</sup> House and Senate Republicans authored several bills in committee beginning in 1901 titled only, “Relief of Certain Enlisted Men of the Twentieth Regiment of New York Volunteer Infantry.” Not until 1905 did the legislation become law, assure the Turners of honorable discharges, and make them pensionable. The sponsorship of these bills lacked obvious links to the German American community.<sup>48</sup> The men who guided it through Congress were Anglo American Republicans—Representative Richard Parker (IL) and Senator Russell Alger (MI). Alger was commander-in-chief of the Grand Army of the Republic in 1890 during the final drive for passage of the pension bill.<sup>49</sup> German Turner and Anglo veterans alike engaged claims attorneys in their earlier individual efforts at adjustment of their war

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<sup>47</sup> Glasson, *Federal Military Pensions*, 238, notes, “While the G. A. R. remained avowedly non-partisan, it was generally conceded that Democrats were rather scarce in the organization.” In 1890 the G. A. R. had just under 394,000 members, *Unofficial Proceedings in Connection with the 24<sup>th</sup> National Encampment, Boston, August 11-16, 1890* (Boston: E. B. Stillings, 1891), 18.

<sup>48</sup> True, in 1901 Representative Jacob Ruppert (D-NY), a second-generation German American from the Bronx, reported the bill to the House Committee on Military Affairs. But Ruppert made no other substantive contributions; report of bills to committees, 17 December 1901, 57<sup>th</sup> Congress, 1<sup>st</sup> Session, *Congressional Record*, House, Vol. 35, 376; “Jacob Ruppert, Jr.,” Mitchell Charles Harrison, comp., *New York State’s Prominent and Progressive Men: An Encyclopaedia of Contemporaneous Biography* (New York: New York Tribune, 1900), 2:177, 297-98.

<sup>49</sup> On Alger see Representative Samuel W. Smith, “Life and Character of the Late Russell A. Alger,” 24 February 1907, 59<sup>th</sup> Congress, 2<sup>nd</sup> Session, Appendix, *Congressional Record*, Senate, Vol. 41, 79; “Gen. Russell A. Alger,” Henry W. Moulton, *Moulton Annals*, Claribel Moulton, ed. (Chicago: Edward Claypool, 1906), 114-21; Thomas E. Sebrell, II, “‘The “Fighting Fifth”: The Fifth Michigan Infantry Regiment in the Civil War’s Peninsula Campaign,” *Michigan Historical Review* 35, no. 2 (Fall 2009): 27-51.

records, without regard to ethnic ties.<sup>50</sup> For example, Jacob H. Dewees represented Gustave Seiffart. Dewees, of Welsh ancestry, had been colonel of the 13<sup>th</sup> Pennsylvania Cavalry and a post commander in the G. A. R.<sup>51</sup>

When the 1904 bill made it to the floor of the House of Representatives, Anglo American Republicans took up its passage.<sup>52</sup> They mentioned the veterans' ethnicity only once in passing. Only Richard Bartholdt (R-MO) had any ties to the German American community: a German immigrant born in the town of Schleiz in 1855. He recalled that four years earlier Sergeant Edward Roehr of Brooklyn, "by the way, a cousin of mine," had written him for support of the original 1901 legislation. "I did not pay particular attention to the matter...because it was a New York case and did not

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<sup>50</sup> On claims attorneys and the charges of corruption often leveled against them, see Skocpol, *Protecting*, 143-48; Glasson, *Federal Military Pensions*, 215-17, 235.

<sup>51</sup> Dewees had commanded George G. Meade Post, No. 5 in Washington, D.C., Journal of Proceedings of the Fifty-Second Annual Encampment of the Department of the Potomac Grand Army of the Republic Held at Washington, D.C., February 18<sup>th</sup>, 19<sup>th</sup>, and 20<sup>th</sup>, 1920 (Washington, D.C.: Beresford, 1920), 9; Dewees to the Judge Advocate General, 24 January 1898, papers of the Seiffart, et al. court-martial. An example of a Turner soldat active in the G. A. R. and early involved in the effort to attain first a proper muster out and later honorable discharges was Private Edward Oertle. As early as 1866 he and his comrades were the petitioners who led the War Department to issue its 4 April 1866 order, John Jolliffe to Stanton, 27 February 1866, papers of the Seiffart, et al. court-martial. Oertle was eventually a senior vice president of his Grand Army of the Republic Post, No. 233 in Brooklyn and a delegate to the national encampment in 1900, Abstract of General Orders and Proceedings of the Thirty-Fourth Annual Encampment Department of New York, G. A. R., Held at Utica, May 16-17, 1900 (Albany, NY: J. B. Lyon, 1900), 183 and Abstract of General Orders and Proceedings of the Fifty-Fifth Annual Encampment Department of New York, G. A. R., Held at Binghamton, June 23, 24, 25, 1921 (Albany, NY: J. B. Lyon, 1922), 127.

<sup>52</sup> Of the sixteen representatives who spoke, thirteen were Republicans and only two were Civil War veterans, Debate on H. R. 1860, "Relief of Certain Men, Twentieth Regiment New York Volunteer Infantry," 11 February 1905, 58<sup>th</sup> Congress, 3<sup>rd</sup> Session, *Congressional Record*, Vol. 39 (hereafter, *CR*, 58, 3, 11 February 1905), 2418-2422. The prominence of Republicans leading these efforts is also surprising, given that so many German Americans by the turn-of-the-century had left the Republican party, prominent among them being both Carl Schurz and Franz Sigel, see Engle, *Yankee Dutchman*, 221-27.

concern either my district or my State.”<sup>53</sup> Bartholdt’s sense of priorities, typical for a Congressman at that time, stands in stark contrast to the wartime pardon campaign. In the early 1900s, the Turner soldiers and their dependents welcomed Republican Party assistance, leveraged ties built through the G. A. R., and muted their ethnic identity.

The floor debate in 1904 cared not a wit for ethnicity, but rather for the obligation both government and citizen had to the service contract. James Mann (R–IL) led the opposition to the bill on several fronts. Mann’s most vehement complaint charged that “they deserted in the face of the enemy, and now because forty years have passed away they propose the Government shall give them some money because they deserted and are alive.”<sup>54</sup> Against these statements, Richard Prince (R–IL) rejoined that the soldiers had “believed their time of enlistment was out” while Richard Crumpacker (R–IN) cited the government’s obligation of “keeping faith” with the men who had come to its defense. Adin Capron (R–RI) viewed the matter as “tardy justice” to veterans who had a “right to what the President of the United States accorded them” in 1863.<sup>55</sup>

Framing these debates was the national memory of the war as one fought by honorable, faithful soldiers—on both sides—which made postwar reconciliation

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<sup>53</sup> Berchtold, *CR*, 58, 3, 11 February 1905, 2421. Biographical information on congressmen taken from United States Congress, *Biographical Directory of the United States Congress, 1774-2005: The Continental Congress, September 5, 1774, to October 21, 1788, and the Congress of the United States, from the First Through the One Hundred Eighth Congresses, March 4, 1789, to January 3, 2005, Inclusive* (Washington, D.C.: Government Printing Office, 2005), *passim*.

<sup>54</sup> Mann, *CR*, 58, 3, 11 February 1905, 2418-21, found the bill redundant given laws already provided relief to men incorrectly given dishonorable discharges; overly narrow as it covered a single regiment; and vague because “men who deserted are treated as squarely as men who did not.”

<sup>55</sup> Prince, Crumpacker, 2418 and Capron, 2419, all in *CR*, 58, 3, 11 February 1905.



possible.<sup>56</sup> Deserters and cowards benefitting from the nation's honest efforts to provide for deserving, courageous veterans could scandalize that memory, hence Mann's condemnation had likely little to do with a subtext of nativism. According to one student of Anglo attitudes about Germans at the close of the nineteenth century, "most Americans considered the Germans to be a desirable people." Although ethnocultural conflict over prohibition, parochial schools, and Sunday laws could at times rally German American political solidarity,<sup>57</sup> such issues remained divorced from the debate over pensions and Civil War memory.

Given these trends, the Turner mutineers made use of the most effective avenues of influence for support in finally securing honorable discharges. While German Americans did adopt cultural pluralism in the postwar years, the odyssey of the 20<sup>th</sup> New York suggests that German American cultural pluralism was highly provisional in the political arena. During the Civil War calling public attention to their ethnic identity and harnessing the political influence of their ethnic group to the war effort and the Republican Party could reap great dividends. Without it, the Lincoln administration would have been unaware of the Turners' predicament. Ethnic solidarity during the war

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<sup>56</sup> Gary Gallagher, *Union War*, 153-59, terms this "situational reconciliation" by which the public memory of the war relied on "commonalities of valor and steadfastness among Union and Confederate soldiers" to reunite the nation even while "condemning secession." Gallagher uses the speeches and monuments on the occasion of the twenty-fifth anniversary of Gettysburg as examples. Likewise, the 20<sup>th</sup> New York erected its own monument a quarter-century after Antietam. Other than the German language inscription paired with its English translation ("In remembrance of our fallen comrades erected by the survivors of the regiment."), nothing about the monument, caped with a wreath and soldiers' accoutrements, differentiates it from similar dedications to Anglo regiments, Miller and Steinlage, eds., *Der Turner Soldat*, 108.

<sup>57</sup> Frederick C. Luebke, "Images of German Immigrants in the United States and Brazil, 1890-1918: Some Comparisons" in Trommler and McVeigh, eds., *America and the Germans*, 209-10. Luebke suggests too that among the Anglo political classes of the United States, most familiar with well-educated and middle-class Germans and German Americans, congenial attitudes were quite strong.

set the table for a final rectification of the matter at the turn of the century, but that same ethnic solidarity had given way to tactics closer to the assimilationist paradigm in their reliance on veteran and partisan ties. Indeed, the localism and ethnic pluralism had in some ways given way to an even greater reliance on the mechanism of federal intervention in citizen affairs. At the same time, the older advantages of associational membership remained through the networks of assistance offered by the G. A. R.

CHAPTER VIII  
“PATRIOTS OF ALL NATIONS! AROUSE! AROUSE! AROUSE!”  
THE AMBIGUITIES OF ETHNIC ASSOCIATIONALISM AND MILITARY  
PROTEST

Philadelphian William Blackburn, an Anglo soldier in the Anderson Troop, complained in early 1862 about Captain William Jackson Palmer's repeated violations of their terms of service. "All we want is for him to be a little more affable and treat us as our position in society demands and not like a company of Irish or mere ordinary men." According to Blackburn, Irish (and presumably other naturalized Americans) did not merit the familiar, egalitarian relationships forged through the compacts and contracts of associational membership. The corollary of this viewpoint was that only natural-born citizens reared in America's self-governing, associational culture possessed the dignity, personal independence, and good sense to insist on their just treatment by authority. Incensed that "every particular" of the company's plan of organization "has been violated," Blackburn did exactly this. He claimed "the satisfaction of expressing my opinion and that of the troop in a very plain...manner in the non-commissioned officers' tent" where "the Captain heard almost all I said and it could not have been very pleasant to him." If necessary, "I shall take the first opportunity to call upon him and reiterate...that instead of the members doing the duties assigned them from a sense of pride for the troop, they only do so for the reason that they are compelled to and act only as slaves." But, Palmer had "shown unmistakeable signs of improvement...since the talk

I spoke about in my last [letter],” and “I am glad he was an auditor. The guard has been reduced and he now speaks much more cordially to the men when he meets them.”<sup>1</sup>

Blackburn believed that his act of individual dissent materially improved the common good of his fellow citizens in uniform. Self-government at times required the individual to be the first line of defense against incursions on the rights of the community. Blackburn and those like him might have been surprised to learn the extent to which ethnic soldiers exhibited such similar behaviors and attitudes. German, Irish, Scottish, and other European ethnic volunteers went to the same lengths to defend their soldier rights. In the preceding chapter, Germans in the 20<sup>th</sup> New York relied on their ties of ethnic identity for solidarity and citizen dissent. And earlier chapters demonstrated how Anglo volunteers drew on America’s foundations of federalism and localism. Running through both, however, were Northern society’s bedrocks of self-government and associationalism.

This follow-on chapter to ethnic soldier rights considers two additional mutinies of ethnic soldiers. It also looks at additional examples of individual and collective protest action by the Union’s ethnic soldiers during the Civil War as a way to further develop the links between insubordination and mutiny explored among Anglo soldiers in Chapter 2. As with the example above, ethnic volunteers’ individual dissent involving questions of soldier rights can shed light on issues and pressures that led to mutinies. Dissent carried greater risks for ethnic soldiers than it did for Anglos because of the ever present charge

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<sup>1</sup> Private William Blackburn to My Dear Bro, 2-3, 11, February 1862, emphasis added, Anderson Troop, n. p., William Blackburn Letters, Society Small Collection, Collection 22B, Historical Society of Pennsylvania, Philadelphia (hereafter HSP).

of treason that could be attached. The 20<sup>th</sup> New York mutiny exemplified ethnic soldiers' conditioned response to this social reality: employing frequent explanations of their loyalty, especially in moments of dissent. This only makes the previous chapter's argument about associational culture more significant. On one hand, the soldier rights that grew out of associational culture provided ethnic soldiers with grounds for dissent that reflected the society's ethos of self-government. On the other hand, the self-governing tradition presented the citizen volunteer bearing arms to defend the Republic as the apotheosis of civic loyalty. Loyal service meant defending the Constitution and the Union against the Rebellion but it also required that, even while in uniform, immigrants and naturalized citizens continued to exercise the duties and rights of their individual state and of the United States. This leads to the most striking contrast between ethnic soldier protest and that of Anglos. Absent among the ethnic soldiers encompassed by this study is the kind of direct gauging of the Union's prospect's relative to the strength of self-government within their own organizations. Ethnic soldiers herein appear soldered firmly to the Republic's banner of war. Instead, military protest actions intensified ethnic soldiers' attachment to their adopted country as well as their application of its hallowed civic principle of self-government.

***“Governing the Affairs of the Regiment”: The 79<sup>th</sup> New York’s Mutiny, Ethnic Identity, and Self-Government***

At the war's outbreak the 79th New York represented the hopes of Gotham's Scottish immigrants and their descendants for the proof of valor and evidence of loyalty to the nation. Originally the 79<sup>th</sup> New York State Militia organized in 1859. It included Scottish transplants like Captain Evan Kennedy who went on to serve in the 119th U.S.

Colored Infantry and David Ireland born in Forfar, Scotland, in 1832. Ireland arrived in New York in 1840 with his family. American citizenship waited until 1860, but he had joined the state militia eight years prior. By the time Ireland and his family landed on American shores there thrived a small, elite and conspicuous Scottish community in New York City extant prior to the American Revolution.

At that time Scottish immigrants had entered New York's skilled laborer and professional ranks all the while establishing various churches and founding numerous voluntary associations like the St. Andrew's Club, the Caledonia Club, and various Masonic halls. Like the Germans and Irish, Scottish Americans had a distinct ethnic identity and a cohesive community that was perpetuated by a rich family and associational life. Out of this matrix came the creation of a Scottish American regiment of the state militia in 1859 as part of both sections' response to the worsening political climate. In homage to the famous Highland regiment of the British army, it took the designation as the 79<sup>th</sup> New York State Militia. Ireland became its adjutant in 1860 under the command of Colonel James Cameron, the brother of Lincoln's first Secretary of War, Simon Cameron.<sup>2</sup>

The 79<sup>th</sup> did not enter federal service as a three-month regiment until 14 May 1861. Organization for the regiment to serve during wartime lagged among the small Scottish community of New York City and its companies increasingly filled with Irish Americans

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<sup>2</sup> H.A. Barnum, et al., Resolution, 10 September 1864, [on the death of Col. David Ireland, 137<sup>th</sup> New York]; New York (County) Court of Common Pleas, Certificate of Citizenship, 24 March 1860, to David Ireland; Appointment, 13 December 1860, Albany, of David Ireland as adjutant of the 79<sup>th</sup> Regiment, 4th Brigade, 1<sup>st</sup> Division of the New York State Militia, all found in the David Ireland Papers, X18023, New York State Library, Albany (hereafter NYSL).

who became the dominant nationality and, according to most modern authorities, inevitable ethnic tensions resulted.<sup>3</sup> How the mutiny unfolded, however, gives reason to doubt this conventional analysis. The 79<sup>th</sup>'s mutiny in 1861 demonstrates the power of ethnic identity leveraged to further the cause of regimental self-government. In a way similar to how the Anderson Cavalry used the ties of localism to gain citizen advocates against the Army and national government for its cause, the Highlanders used the binding ties of Scottish ancestry to access their own powerful civilian intermediaries. The mutiny also indicates the idiosyncratic interfaces of particular ethnic identities within the larger stream of American culture.

Similar to the Anglo regiments that mutinied in the wake of the First Battle of Bull Run, the camp of the 79<sup>th</sup> New York roiled with dissent on 14 August 1861. The Highlanders had been one of the few units to cover the retreat of Union Major General Irvin McDowell's Army of Northeastern Virginia all the way back to the defenses of Washington, D.C., on 21-22 July. It had already performed numerous assaults on Henry House Hill and seen most of its leaders cut down. The regiment did not break off contact with the enemy until other units beside it began to give way. One of the battle's survivors and the principal primary source for the mutiny, Lieutenant William Thompson Lusk, explained to his mother, "The shock we received in the last battle was very great....six Captains and nine Lieutenants, nearly half of the entire number, were

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<sup>3</sup> Terry A. Johnston, Jr., "From Fox's Gap to the Sherrick Farm: The 79th New York Highlanders in the Maryland Campaign," *Civil War Regiments*, Vol. 6, No. 2 (1998), 58; Ella Lonn, *Foreigners in the Union Army and Navy*. (New York: Greenwood Press, 1951), 130; William L. Burton, *Melting Pot Soldiers: The Union's Ethnic Regiments*. (New York: Fordham University Press, 1998), 163.

lost to us that day.”<sup>4</sup> By battle’s end they had endured 198 casualties including the death of Colonel Cameron.<sup>5</sup>

Historians have attributed the mutiny of the 79<sup>th</sup> to numerous causes, usually drawing in varying degrees from the regiment’s official history composed in 1886 by erstwhile Lieutenant William H. Todd. Devastating combat losses and the elimination of its charismatic leader depressed morale. And these factors no doubt ushered in the desertion of some 140 men after the Highlanders returned to the national capital. Yet as seen among Anglos and the 20th New York, mutiny required something more. There had to be evidence of affronts to the citizens’ sense of good government and violations of their soldier rights. For the Highlanders these came in quick succession in the forms of retractions of expected furloughs, of slow pay, of unelected officer replacements, and of disputes over enlistment terms. But it was alcohol that provided the spark, or rather the spine, to their protest against such manifest violations of soldier rights.<sup>6</sup>

On 10 August 1861 the Highlanders were paid for the first time after three months of service (but a month late). According to Lieutenant Lusk, “the men contrive to obtain liquor, and when intoxicated are well-nigh uncontrollable, so that the utmost vigilance is needful.”<sup>7</sup> In a complaint echoing those uttered by the Anderson Cavalry, he observed,

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<sup>4</sup> William Thompson Lusk to “My dear Mother,” 5 August 1861, William Thompson Lusk, *War Letters of William Thompson Lusk, Captain, Assistant Adjutant-General, United States Volunteers, 1861-1863, Afterward M.D., LL. D.* (New York: privately printed, 1911), 67.

<sup>5</sup> Lonn, *Foreigners*, 131. The losses for the 79<sup>th</sup> amounted to over a quarter of its strength, Johnston, Jr., “From Fox’s Gap,” 60.

<sup>6</sup> Lonn, *Foreigners*, 130-31; Burton, *Melting Pot Soldiers*, 161-62; Johnston, Jr., “From Fox’s Gap,” 61; Martin W. Öfele, *True Sons of the Republic: European Immigrants in the Union Army* (Westport, CT: Prager, 2008), 96-97.

<sup>7</sup> Lusk to “My dear Mother,” 11 August 1861, *War Letters*, 70, and 17 August 1861, *War Letters*, 77.



“As it is now,” after the 79<sup>th</sup>’s battlefield losses, “whole companies are with out officers.”<sup>8</sup> The dearth of commissioned officers also led directly to a growing disjuncture in the minds of some of the men between their associational rights to elect their new commander and the Army’s apparent prerogative to simply appoint one.

The new colonel provided by the Army arrived the same day as their pay. When Colonel Isaac Ingalls Stevens, the territorial governor of Washington and an officer of the Regular Army, arrived at camp with orders from the War Department to take command, six officers immediately resigned in disgust. A mere ten officers remained in the entire regiment.<sup>9</sup> Trouble like that which had engulfed the 15<sup>th</sup> Pennsylvania Cavalry appeared to be in the offing. The resignations protested how the Army contravened earlier orders on 7 August from the New York Militia that directed the regiment to elect a new colonel. Even before Stevens’s arrival, Lieutenant Colonel Samuel McKenzie Elliot had made plans to hold the officers’ election of a new colonel on 13 August.<sup>10</sup> These orders were a welcome answer to a petition drafted at the end of July by Elliot, the other surviving officers, and many non-commissioned officers. The petition with the endorsement of their division commander in the militia, Major General Charles W. Sandford, requested Secretary of War Simon Cameron to return the shattered command to New York for recuperation and the recruitment of new levies. In his account, Lusk

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<sup>8</sup> Lusk to “My dear Mother,” 5 August 1861, *War Letters*, 68.

<sup>9</sup> William H. Todd, *The Seventy-Ninth Highlanders: New York Volunteers in the War of the Rebellion, 1861-1865* (Albany, NY: Brandow, Barton, 1886), 59-60. Cameron remained an advocate for the regiment after he left office, for example requesting the President expedite exchanges of Highlanders held by the Confederacy as prisoners of war, Assistant Adjutant General L. H. P. to Simon Cameron, 7 November 1864, Washington, D.C., James Gilmore Letter MSS 15787, Manuscripts and Special Collections, NYSL.

<sup>10</sup> Todd, *The Seventy-Ninth Highlanders*, 58–9. Elliot forwarded to the regiment’s officers the state’s order for an election appended to his orders scheduling the vote.

adds that Lieutenant Colonel Elliot had called on Cameron personally. The secretary of war transferred the regiment to a new brigade, endorsed the petition, and penned orders to dispatch the 79th to New York to acquire replacements.<sup>11</sup>

On 1 August, however, the War Department ordered that only Lieutenant Colonel Elliot return as a recruiter to New York and it referred to a “Colonel Stevens” as the new commander.<sup>12</sup> In his correspondence from this time, Lusk began to doubt the regiment would return to Gotham. There were rumors that the military authorities now viewed it as injurious to the morale of other regiments.<sup>13</sup> And Todd is quite explicit in the official history that the men’s desire for a rest and refit at home depended on the patronage they believed they could claim from Secretary Cameron, the brother of their martyred colonel. These confusing circumstances combined with the terrible losses of Bull Run to convince Lusk that , “The men feel that they were wronged, and are discontented; officers feel that they were insulted, and have resigned.”<sup>14</sup>

Thus, Colonel Stevens’s intention to take command flew not only in the face of the understanding of membership in the hearts of the officers and men, but directly transgressed explicit orders from their state and disrupted the implicit cooperation they felt entitled to from the national government by way of ethnic association. These convictions of violated rights prompted the officer resignations that precipitated a break

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<sup>11</sup> Todd, *The Seventy-Ninth Highlanders*, 56–57; Lusk, 68.

<sup>12</sup> Todd, *The Seventy-Ninth Highlanders*, 56–8, explains that the order was never read to the regiment or circulated among the officers.

<sup>13</sup> Lusk to “My dear Mother,” 11 August 1861, *War Letters*, 70, and 17 August 1861, *War Letters*, 77.

<sup>14</sup> Lusk to “My dear Mother,” 5 August 1861, *War Letters*, 68.

down in camp discipline, especially in maintaining the camp guard properly. These circumstances set the stage for what became the red letter day of 13 August.

Instead of the planned election that would have reaffirmed a measure of self-government in the unit continued to exist, the appointed commander issued orders making it starkly clear who was in charge. Colonel Stevens circulated a directive that tents would be struck and knapsacks filled with rations and clothing in preparation to march at six in the morning, 14 August. The planned departure was not northward for a return to New York, but south into Virginia and possible renewed combat. On the night of the thirteenth, many soldiers snuck out of camp, ostensibly to drown their sorrows, express their outrage, and foment resistance. A few of these smuggled liquor back into camp to stiffen the will of their comrades. By morning a crowd of drunken Scottish American volunteers were ready to offer a spirited, collective protest to the wishes of their unwelcome colonel and the meddling Army that had put him there.<sup>15</sup>

The contravening orders about the regiment's leadership illustrate the tensions of federalism at work in organizing the Union Army. The national military establishment's priorities of recruitment and a reliable chain of command flew in the face of the state militia leadership and the citizen-soldiers' concerns about processes of self-government, associational membership, and connection to home and community. Particularly galling must have been the sense that by defending their adopted nation in its time of crisis, rights of association so central to the normal functioning of their organization, such as

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<sup>15</sup> Todd, *The Seventy-Ninth Highlanders*, 60–61; Lusk to “My dear Mother,” 17 August 1861, *War Letters*, 72–73; see also Lonn, *Foreigners*, 130–31; Burton, *Melting Pot Soldiers*, 161–62; Johnston, Jr., “From Fox’s Gap,” 61; Öfele, *True Sons of the Republic*, 96–97.

electing their colonel, could be trampled under foot by the power of the central government they were risking their lives and livelihoods to preserve.

Roused at dawn on the fourteenth, only two companies followed Colonel Stevens's orders to prepare for a march into Virginia. In the others, drunken ringleaders, confident in the regiment's just cause against the government, encouraged their comrades to refuse striking tents—equivalent to stacking arms—and symbolic of their intention to remain on Union soil. The standoff lasted until noon. Colonel Stevens made personal appeals to the men to obey and directed a cohort of loyal non-commissioned officers to compel each mutineer to declare his submission to authority as well as his intention to strike tents as ordered. In intent this was identical to Colonel Harai Robinson's tactic of physically separating the Rhode Island cavalymen during their consolidation with his Louisianans as described in Chapter III: attenuating the corporate identity of the regiment through individuation. This plan backfired and nearly every man answered with a sharp, "No, sir!"<sup>16</sup>

The responses in the negative brought on the mutiny's climax. Stevens answered their defiance with determination. First, he visited each company to proclaim the Articles of War. He probably read the first page of the Regulations followed by Articles 7, 8, and 9 pertaining to mutiny and mutinous conduct. Next, he ordered the officers to begin striking tents and sent word to higher command of the deteriorating situation. Using "names neither poetical, decent, or complimentary," the soldiers berated the handful of officers Stevens detailed from the loyal companies to bring down the tents.

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<sup>16</sup> Todd, *The Seventy-Ninth Highlanders*, 61-65.

Among them was Lusk. The officers persevered “amid the jeers, the taunts, and the insults of an infuriated mob,” including soldiers promising “one officer at least to die.” Lusk found it “more trying than the musketry or cannonading of Bull Run.” Certain of the mutineers remained so resolute to stand their ground that a strange game of cat-and-mouse developed whereby they would re-stake their tents after officers had moved onto another part of the camp.<sup>17</sup>

As news of the mutiny made its way up the chain of command, the new Army of the Potomac’s commander, Major General George B. McClellan, moved swiftly to counter an early test of his authority and legitimacy. In a communiqué delivered to the camp of the 79<sup>th</sup>, he questioned if there was a “true man” among them. Thus far their conduct had been “disgraceful in the extreme.” McClellan denigrated their “alleged grievances” as “frivolous and unfounded.” At the same time, however, Stevens inquired of the men what grievance drove their actions. Some of the leaders explained that they resented being denied furlough to New York and especially that the officers’ election of a new colonel had been cancelled.<sup>18</sup>

Before Stevens had time to respond to this information, McClellan had dispatched a large provost force to the 79<sup>th</sup>’s camp. It included several unattached companies of Regular infantry, two companies of the 2<sup>nd</sup> U.S. Cavalry and an artillery battery ready to fire canister into the Highlanders. Like General Rosecrans made clear for the 15<sup>th</sup> Pennsylvania Cavalry mutineers, McClellan gravely emphasized to the commander of

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<sup>17</sup> Lusk to “My dear Mother,” 17 August 1861, *War Letters*, 73–74.

<sup>18</sup> Todd, *The Seventy-Ninth Highlanders*, 61-63.

the provost guard, “You are authorized to use force, if necessary, to accomplish the object.” When it arrived, Stevens’s orders were repeated and under the loaded rifles and cannon the regiment was made to fall in. Colonel Stevens addressed his men in the most uncompromising terms. He cited his combat experience on the frontier and in the Mexican War as evidence that, “I have been...in far greater danger than that surrounding me now....I am your Colonel! And again I say you must obey me! Fall into the ranks!” In the face of determined authority and the threat of deadly force, the mutiny collapsed. Highlanders formed into column and began a march to a new camp near the Maryland Insane Asylum, “not a very strange coincidence,” according to Todd. Thirty-five ringleaders were shackled and confined at the Washington Navy Yard aboard ship. Most humiliating of all, the regiment’s battle-scarred and tattered colors were revoked until it submitted to Army authority and proved itself in future combat. After a month, fourteen were released and the remainder were shipped to the Dry Tortugas for imprisonment at Fort Jefferson. In February 1862 these twenty-one men also gained their release and were reinstated to the Highlanders.<sup>19</sup>

When Stevens had addressed the Articles of War to the companies, Lusk noted that the men were unmoved, because “they had been told that they had the law on their side, and if they only persevered, they would be able to return home as a militia regiment.” Like the problems in the Anderson Cavalry and the 10<sup>th</sup> New York Cavalry, these convictions stemmed from what Lusk believed was the genesis of the mutiny: it was the

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<sup>19</sup> Assistant Adjutant General A. V. Coburn to Brigadier General Andrew Porter, Provost Marshal General, Washington, D.C., 14 August 1861, *OR*, I, 5, 561; Burton, *Melting Pot Soldiers*, 162; Todd, *The Seventy-Ninth Highlanders*, 65-67. No general court-martial records were found at the National Archives and neither Todd nor Lusk allude to one having taken place.

“legacy of a quarrel” from before Bull Run about “governing the affairs of the regiment.” After the battle a faction of officers resigned who “resolved to undermine the Regiment itself.” These beliefs about “governing” the regiment can be read along two vectors. One is that of federal relations: who controlled the regiment’s service, the state of New York or the national government. The other is that of associational membership: did the members themselves structure the regiment’s internal affairs or the Army?

The officer faction circulated rumors that elevated the regiment’s status as State Militia in national service, suggesting that “they were entitled to return home at the expiration of three months service” to a hero’s welcome and those “who were ready to re-enlist for the war, would be entitled to the re-enlistment bounty of \$30.” These claims were erroneous, of course. The 79<sup>th</sup> had been mustered as three-years soldiers, but like the 20<sup>th</sup> New York and so many other Empire state regiments, enough confusion reigned about the lines of state and national allegiance that such allegations could stick for a time. When the State Militia’s orders that the regiment return to New York were countermanded this was enough proof for many of the soldiers that central authority had usurped the proper governance of their organization.

The disgusted officers also suggested a conspiracy involving Colonel Stevens. They charged that he had been paid \$10,000 by “the Government” to “sell you all for the war, and to cheat you of your *rights and privileges*.”<sup>20</sup> The most important of these rights was electing a new colonel to replace Cameron. This was the second vector of governance. The internal order and structure of the regiment belonged to them as members. Having

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<sup>20</sup> Lusk to “My dear Mother,” 17 August 1861, *War Letters*, 72–74.

elected their company officers, those officers now had the responsibility and authority to choose a new leader from within the membership who would attend to the common good. Moreover, drawing leaders from within served to close the circle of ethnic identity and ensure that leaders were amenable to character of the organization and likely from the home community. This would in turn ensure that the bonds of membership would temper application of military law in the regiment.

Perhaps the most surprising part of Todd's history of the mutiny is that he makes no mention of a distinction between Irish and Scots in the ranks nor does he use it as an opportunity to lay the blame on the Irish. Contrary to the views of modern historians, conflicting ethnic loyalties appear not to have been at issue in the mutiny. Rather it was their claims about self-governance related to terms of service, pay, and officer elections. Drunken dissent by a proportion of the regiment propelled a mutiny by most of the rank and file to defend self-government over their organization. In one sense, the actual grounds of the mutiny had little to do with the soldiers' Scotch ancestry or their Scottish-American ethnic community. Yet, if not for the regiment's tie to the Cameron family and the Secretary of War which depended on Scottish identity, there would have been no hopes that it might be returned to New York. Nevertheless, the majority Scotch ancestry of the soldiers and their connections to one another through the Scottish American community of New York did provide a measure of solidarity. That led to their confidence in asserting their own plans for the regiment's future in the immediate aftermath of Bull Run.



At the same time, the Highlanders' mutiny lacked the explicit appeals to loyalty so evident in that of the 20<sup>th</sup> New York. By the 1860s Scottish-Americans stood near the end of their journey, along with English and Welsh migrants, to forming the country's pool of "invisible immigrants." Due to affinities of language, religion, and customs, British immigrants and their progeny appeared less and less as the "other." Yet Charlotte Erickson's unrivaled assessment of these groups emphasizes that intact, self-conscious communities like the New York Scots were central to how individuals successfully navigated the Atlantic transition.<sup>21</sup> In an ironic way, therefore, Scottish-American citizen-soldiers could avoid the Turners' frank acknowledgement of their loyalty because of their ethnic community's continued cohesion just as German-Americans needed the integrity of their ethnic institutions in order to make those necessarily vocal claims of patriotism. In this, these two mutinies suggest how the wider context of antebellum ethnic politics left its own mark on incidents of citizen-soldier dissent.

***"You Have No Right to Command Me": Ethnic Associationalism and Rights of Membership Prompted Soldier Dissent***

Alcohol provided the trigger for the Highlanders' mutiny in spite of the legitimacy of their associational complaints. This is a reason to delve further into the links between insubordination and mutiny. Chapter 2 established that Anglo volunteers could find room in Army regulations' Article 1 to confront what were understood to be unfit officers according to their basic notions of associational self-government. Along these same lines, ethnic soldiers, even when emboldened by alcohol consumption, could

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<sup>21</sup> Charlotte Erickson, *Invisible Immigrants: The Adaptation of English and Scottish Immigrants in 19th Century America* (Coral Gables, FL: University of Miami Press, 1972).

engage in insubordination best defined as “drunken dissent.” That is, like the Highlanders who mutinied, ethnic soldiers protested in various modes against what they recognized as unjust military authority and discipline against the soldier rights issuing from the bosom of ethnic associationalism. In these crises ethnic officers acted prudently when they leveraged associational ties to bring soldiers back into line and avoid full-blown mutinies. As in the case of Anglos, that was often the difference between insubordination and mutiny.<sup>22</sup>

Certainly there are examples of ethnic soldiers who from sensibilities closer to associational concerns refused the orders of line officers from outside their company or regiment. Privileges of membership, especially election of officers, were their lone check on the potentially untrammelled authority of commanders under the Articles of War. All the more reason for them to be wary of taking orders from officers over whom they had no redress. In these cases ethnic soldiers acted similarly to native-born Anglos jealous of these same founding rights of membership. For example, Private John Bogenschutz, in Company E of the 27<sup>th</sup> Pennsylvania, confronted 2<sup>nd</sup> Lieutenant Adolph Schaefer from Company G. As the regiment returned from a reconnaissance sweep near Aldie, Virginia, on 20 July 1863 Schaefer found Bogenschutz straggling and ordered him to fall in. Bogenschutz, however, objected to Schaefer’s presumption of authority over him. “You can only speak to me when I ask you. *You have no right to command me.* I got my own commander. I would sooner speak to a dog as to you.” Conflicting

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<sup>22</sup> I am not going so far to say that alcohol figured more (prominently or often) in ethnic insubordination than in Anglo; I am simply attempting to suggest a method of analysis that can find significance in insubordination incidents seen typically as “tainted” by drunkenness in the eyes of historians who look at soldier behavior.

evidence led the court to acquit Bogenschutz,<sup>23</sup> but in so doing it acknowledged the implicit associational limits drawn around officer's authority. A line officer's power to command might not extend beyond those men who had freely consented to form themselves into a company and then bestowed that power on one of their own number whom they had elected. Accordingly, attempting to give orders across company boundaries could be an exercise in frustration for officers,

On the other hand, command authority in its proper sphere could also protect self-government. Another act of insubordination among Germans and German Americans helps clarify how at times this could rise to the level of defining and defending associational membership. In January 1863 Private John Meyer of the 41<sup>st</sup> New York, "De Kalb Regiment," had converted a log cabin at Aquia Creek, Virginia, into a blacksmith's shop on orders from his regimental quartermaster. Hours later 2<sup>nd</sup> Lieutenant C. L. Allstaedt approached and told him to vacate immediately. Allstaedt planned to employ it as a guardhouse for his company of Germans from a different regiment, the 54<sup>th</sup> New York, "Schwarze Jäger." He pressed charges alleging that Meyer threatened him with a rod of iron and refused his orders.

Had Meyer been ordered by an Anglo it might be reasonable to explain this as a collision of nativism and ethnic identity. Like the Bogenschutz example above, two Germans pitted command authority from the Army against rights of regimental membership. By signing the muster roll of his regiment Meyer had consented to the command of its officers. He followed the orders of his quartermaster in establishing the

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<sup>23</sup> Private John Bogenschutz general court-martial, 12 December 1863, 27<sup>th</sup> Pennsylvania, LL3241, RG 153, Records of the Judge Advocate, NA, Washington, D.C., Emphasis added.

shop at that location. Absent the bonds of membership, the orders of an officer from an unconnected organization were not binding. Meyer explained he would only relinquish possession of the cabin if Allstaedt could provide a letter from the 41<sup>st</sup>'s colonel. Instead, Allstaedt produced Meyer's own lieutenant colonel, Ernst von Holmstedt. According to eyewitness testimony from the trial, on von Holmstedt's arrival "all was made up, and the blacksmith kept the shop." Although the court found Meyer guilty of the charge, it sentenced him merely to be reprimanded by his colonel and "cautioned not to lift up a weapon to any one [*sic*] hereafter."<sup>24</sup>

Meyer's trial, echoing those of Anglos in the 9<sup>th</sup> New York, shows how soldiers' insistence on their rights of membership affected the application of the Articles of War. But this dynamic also required sensible officers, especially ones who shared those bonds of identity. Insubordination in these circumstances has a popular constitutional dimension if understood in light of Army regulations' Article I.<sup>25</sup> Ethnic affiliation also appears to have contributed to Meyer's light sentence, as state affiliation operated in the mutiny of the 9<sup>th</sup> New York. The members of his court served in the German regiments of the Eleventh Corps's First Division, including the 41<sup>st</sup> and 54<sup>th</sup> New York. Meyer's fellow Germans on the court appear to have defined the boundaries of regimental membership as a legitimate defense against external authority and could reasonably

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<sup>24</sup> Charges and specifications, Private John Meyer general court-martial, 23 January 1863, LL154, RG 153 Records of the Judge Advocate, National Archives, Washington, D.C.

<sup>25</sup> Revised Regulations, Art. I, Paras. 1–2, United States War Department, Revised United States Army Regulations of 1861 with an Appendix Containing the Changes and Laws Affecting Army Regulations and Articles Of War to 25 June 1863 (Washington, D.C.: U.S. Government Printing Office, 1863), 9.

argue that Allstaedt had not been properly “appointed” over Meyer. Therefore they released Meyer from strict obedience.

Soldiers’ concerns about personal autonomy emerged in conflicts over ideals of manhood—passionate physicality or genteel self-control—that shaped the application of discipline and prompted an increase in punitive violence within the Army. The Jacksonian confidence that all men should be treated equally coexisted with divergent views about what constituted authentic manhood according to differences in class, social status, and ethnicity. Relations of authority between officers and soldiers brought these tensions especially to a head. Particularly worrisome for middle-class Anglo volunteers of 1861 was the influx into the Army after 1863 of significant numbers of conscripts and immigrants. Their versions of aggressive, passionate manhood threatened the genteel, self-controlled, moral manhood of the veterans. Violence, disobedience, and court-martial increased as the Anglo veteran volunteers and the Army hierarchy struggled to bring these “roughs” to heel.<sup>26</sup>

The immigrant soldiers in these episodes, however, did not enter the Army in 1863 but were among the volunteers of 1861.<sup>27</sup> The use or threats of physical violence along with contemptuous, derisive speech were characteristics of the “roughs.” At the same time, these disputes between German American officers and soldiers, recruited from the

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<sup>26</sup> Lorien Foote, *The Gentlemen and the Roughs: Manhood, Honor, and Violence in the Union Army* (New York: New York University Press, 2010), 119–170.

<sup>27</sup> Private Gustav Schmidt, 2<sup>nd</sup> Battery, New York Artillery, Union Compiled Military Service Records, RG94 Records of the Adjutant General's Office, 1762–1984, NA, Washington, D.C.; John Bogenschutz pension file, 197.495/135.563, Roll 40, Microfilm Publication T288 General Index to Pension Files, 1861–1934, NA, Washington, D.C.; Private John Henry Meyer, 41<sup>st</sup> New York Infantry Regiment, Union Compiled Military Service Records, RG94 Records of the Adjutant General's Office, 1762–1984, NA, Washington, D.C. (hereafter CMSR).

same local communities, reveal the extent to which associationalism informed their understanding of military service in defense of the Republic. Acts of insubordination reported in court-martial records are simply the residue of the daily encounters with their officers that citizens in uniform regarded as moments to judge their commanders' continued right to command. Bogenschutz claimed he had his "own commander" and Meyer only desisted after he had secured the intervention of an officer from his own regiment. While expressed coarsely these sentiments are not different in substance from the Anglos of the 133rd Pennsylvania who desired to replace their incompetent lieutenant with one of their own from the ranks. Judgments like these by the sovereign members of a company or regiment counted more than shoulder straps in the egalitarian culture of ethnic associationalism. The daily challenges to soldiers' spheres of independence and self-governance under Army life required vigilance and when that was not enough, action.

Which offers a reason to reassess the perennially referenced image of the besotted ethnic soldier in the Union Army. Adding drink into the relations of camp created additional opportunities for soldiers to test the limits of officers' authority. Nativist stereotypes about free drinking Irish and Germans soldiers have wormed their way into the historical record as at best instances of ethnic soldiers' distinctive character and at worst explanations for battlefield ineffectiveness. In some cases, ethnic membership led prudent officers to use the prisoner's intoxication to secure him clemency. At other times, alcohol produced "drunken dissent" when soldiers' insubordination was still aimed at protecting soldier rights. These two facets of the interface between alcohol and

insubordination only reinforce alcohol's nuanced place in the subcultures of ethnic Americans that continued in their military camps.

Cases of insubordination or mutinous conduct involving alcohol should not, therefore, be deemed unworthy of analysis on principle. Even in incidents involving drunkenness, insubordinate soldiers still insisted firmly (sometimes violently) that they had the same competence to place limits on their obedience as the men in the examples above. These can become moments when men who might not have otherwise, expressed their dissatisfactions with being a citizen in uniform.

In general, historians have made the intoxication that did occur among ethnic soldiers more visible than in Anglo regiments. Conviviality temporarily enlivened a camp life that in the words of an Irish American soldier, "really is monotonous and were it not for the tremendous interests of the country which are at stake, one would soon tire of it."<sup>28</sup> The presence of alcohol lent a distinctive touch to early war camp life in German regiments. Already distinctive because German served as the primary mode for command and administration, distinctive foods, music, camp song, and even camp layouts also reflected German tastes. Perhaps second only to language in distinctiveness was the number of German regiments allowed by the Army to enjoy a beer ration at the war's outset. Certain regiments tapped dozens of lager kegs at a time.<sup>29</sup>

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<sup>28</sup> James B. Turner [88<sup>th</sup> New York] to "My dear Mother," 26 June 1861, Arlington, Virginia, Box 1, James B. Turner Papers, SC 12613, Manuscripts and Special Collections, NYSL.

<sup>29</sup> Joseph Reinhart "Introduction" in *A German Hurrah!: Civil War Letters of Friedrich Bertsch and Wilhelm Stängel, 9<sup>th</sup> Ohio Infantry*, Joseph R. Reinhart, trans. and ed. (Kent, OH: Kent State University Press, 2010), 14-15; Lonn, *Foreigners*, 356; Burton, *Melting Pot Soldiers*, 87-89, also notes, following Carl Witke, that sutlers selling lager in the camps of Louis Blenker's German brigade earned up to eight thousand dollars each month.

Alcohol abuse, however, affected the entire Army and undermined its discipline, morale, and effectiveness. In German regiments, in Irish units, and in predominantly native-born organizations, alcohol could be source of irritation and disorder in camp. German and Irish American officers dealt with intoxication as a negative force in military discipline as much as has been reported in Anglo regiments. Drunkenness either as a charge or a circumstance pervaded many trials of individual insubordination or mutinous conduct in both Anglo and immigrant regiments. Eighteen percent of all general courts-martial involved alcohol, although drunkenness was not itself a punishable offense. Such behavior often put men before general courts-martial on trial for disrespect of a superior officer, disobedience of orders, or mutinous conduct. In the Army's view the actions and words of drunken soldiers were what got them crossways with the law. Alcohol, however, could either be a mitigating or condemning factor from case to case.<sup>30</sup> It also temporarily liberated soldiers from obedience to military discipline and their officers.

For instance, Private Anson Ziegler, when accused of drunkenness by a sergeant retorted, "Kiss my ass!" before assaulting him. During Ziegler's court-martial the strong bonds of association due to the ethnic character of the 41<sup>st</sup> New York produced an outcome remarkably similar to what happened after the mutiny of the Anglo 9<sup>th</sup> New York. Although finding him guilty, the officers of the court wrote an appeal for clemency to Major General George McClellan that the private had been a good soldier and shown remorse for his actions during the trial. Officers themselves in the German

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<sup>30</sup> Steven V. Ramold, *Baring the Iron Hand: Discipline in the Union Army* (De Kalb: Northern Illinois University Press, 2010), 156-164; Foote, *The Gentlemen and the Roughs*, 29-30.



“De Kalb” regiment and others of Brigadier General Louis Blenker’s German division, they balanced a responsibility to military law with upholding the good reputation of German American soldiers. The private’s truculence and willful independence brought on by tippling was an exception to his soldierly conduct, and of Germans generally.<sup>31</sup>

Intoxication could likewise induce some soldiers to protest minor privations of camp life like unpalatable food that had gone on too long. Drunkenness is the trigger for protest, rather than the root cause, in these cases. As in civilian life, alcohol could loosen the bonds of propriety and good judgment that usually restrained a soldier from protesting what he internally considered mistreatment or injustice. Such was the case of Private Hermann Temps in the 45<sup>th</sup> New York. He admitted to intoxication after he excoriated the cook for rotten food and declared he would eat gruel no longer.<sup>32</sup> Likewise, in a New Jersey ninety-day regiment in May 1861 Anglo and Irish American soldiers and officers threw over tables in the regimental mess in protest. According to Irishman James Turner, “The food that day was wretched and the quantity very small—some of us having sat at the table ten minutes and still no sign of getting anything to eat.”<sup>33</sup> In these soldiers’ minds, insisting on better food comported with soldiers’ demands about pay, uniforms, and equipment as markers of the Army’s commitment to fulfill its contract. Ethnic soldiers in myriad, small ways such as these integrated

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<sup>31</sup> Private Anson Ziegler general court-martial, 15 November 1861, 41<sup>st</sup> New York, II655, RG 153 Records of the Judge Advocate, NA, Washington, D.C.

<sup>32</sup> Hermann Temps general court-martial, 45<sup>th</sup> New York (Veteran), LL2691, 9 July 1861, RG 153 Records of the Judge Advocate, NA, Washington, D.C.

<sup>33</sup> James B. Turner to My Dear Parents & Sisters, 11 May 1861, Washington, D.C., Box 1, James B. Turner Papers, SC12613, Manuscripts and Special Collections, NYSL.

themselves into the Army just as incompletely and uncomfortably as their Anglo comrades.

But drunken dissent could quite easily move on to weightier matters. One Irish soldier's critique exposed a deep dissatisfaction with the quality of leadership in his regiment after drink loosened his tongue. Private Michael Flanagan in the 88<sup>th</sup> New York, one of the three original regiments of the Irish Brigade under the command of Brigadier General Thomas Francis Meagher, pled guilty to threatening and abusive language towards 2<sup>nd</sup> Lieutenant Edward Nagle, the officer of the guard on 13 April 1863. Assigned guard duty that day, he refused Nagle's orders to take his shift. Drunk in the middle of the day, he called Nagle a "son of a bitch." Nagle ordered him tied up to a tree, but Flanagan continued his tirade, threatening to shoot the OOD and "did not care for any god damed [*sic*] officer of the regiment." During the trial, Flanagan apologized for his behavior and assured the court he would never have refused orders or been insolent "had I been sober." He felt it pertinent to buttress his remorse with proof of his loyalty and faithfulness. "I have never insulted an officer before. Have been in every battle until Fredericksburg." The court, with only one officer from the Irish Brigade, found him guilty and ordered he forfeit ten dollars each month for three months.<sup>34</sup>

At the trial Flanagan's sober claim of faithful, brave service up until Fredericksburg juxtaposed against his condemnation of the regiment's officer class, betrays the lingering damage done to the regiment's morale even after coming through the battle. Survivors from the brigade described the battle as a "slaughter-pen" and a "wholesale slaughter."

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<sup>34</sup> Private Michael Flanagan general court-martial, 88<sup>th</sup> New York, 15 April 1863, LL705, RG 153 Records of the Judge Advocate, NA, Washington, D.C.

The entire brigade suffered 950 casualties among its officers and men during the battle; the 88<sup>th</sup> New York alone experienced 127 officer and enlisted casualties. Most dreadful for its cohesion and identity, the brigade had fifty-five officers killed at Fredericksburg in addition to the twenty-four lost thus far.<sup>35</sup> Flanagan's remarks can be read as an indictment of regimental officers who pushed the men up towards disaster at Marye's Heights or disgust with officer replacements who did not meet the measure of the leaders that came before. More importantly they suggest that he and his comrades had no part in choosing new officers in spite of having proved their fitness for self-government in the heat of battle.

Officers on a general court-martial from within the organization or from the same ethnicity as the accused could see intoxication as a mitigating factor. In the 88<sup>th</sup> New York Private John Wallace pled not guilty to insubordination. Testifying for the prosecution, Sgt. James Fox defended Wallace and clarified that Wallace said, "I got out [of his tent] as soon as I was ready" and that he addressed his captain "in the usual tone" not in a "contumacious" manner according to the charges. Fox went on to submit that Wallace was otherwise a "splendid soldier" which was sufficient to acquit him. Although the same court reduced Corporal Cornelius Ahern to the ranks for missing picket duty while drunk.<sup>36</sup>

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<sup>35</sup> Bruce, *The Harp and the Eagle*; Öfele, *True Sons of the Republic*, 130-31. Burton, *Melting Pot Soldiers*, 124-25, notes James Turner reported to the *Irish-American* that 545 out of 1,300 Irish Brigade soldiers were killed, wounded, or missing.

<sup>36</sup> Corporal Cornelius Ahern, 4 April 1863 and Private John Wallace, 21 March 1863, both of the 88<sup>th</sup> New York, general courts-martial, LL705, RG 153 Records of the Judge Advocate, NA, Washington, D.C.

In the case of Private William Reeves, 28<sup>th</sup> Massachusetts (part of the Irish Brigade), he received clemency only because he had fellow Irish officers who could ascribe his crimes to alcohol rather than evil intent. He had joined his regiment in August 1863, likely as a substitute or a conscript. After tattoo on 16 January 1864 he lashed out violently and assaulted the regimental adjutant, Lieutenant Michael Kinley, throwing his hat in the mud and punching him. Reeves then took on the guard sent to arrest him and also struck Lieutenant Colonel George H. Cartwright. Later he escaped from the guard tent with a weapon, found the lieutenant colonel's tent, and tried to bayonet him while calling him a "son-of-a-bitch" and a "mean hound."<sup>37</sup> The trial revealed Reeves to be severely drunk at the time and not in control of his faculties. The lieutenant colonel went to great lengths to mitigate the soldier's actions, downplaying the threat he posed with the musket and pointing out Reeves could not have known he was confronting a lieutenant. The officers testified to his record of previous good behavior. Composed mainly of fellow Irish or Irish American officers from the brigade, the court acquitted him of assaulting an officer and instead charged him with the lesser offenses of drunkenness and riotous conduct. Perhaps recognizing the financial motives driving Reeves's service, they forced him to forfeit ten dollars from his monthly pay for three

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<sup>37</sup> Private William Reeves general court-martial, 28<sup>th</sup> Massachusetts, 20 April 1864, LL2178, RG 153 Records of the Judge Advocate, NA, Washington, D.C. (hereafter Reeves general court-martial). Reeves pled not guilty to the charges of mutinous conduct and violating the Ninth Article of War which forbade threatening or battering an officer and disobeying his commands. The maximum penalty for violating Article Nine was execution, *Revised United States Army Regulations of 1861, with an Appendix Containing the Changed Laws Affecting Army Regulations and Articles of War to June 25, 1863* (Washington, D.C.: United States War Department, Government Printing Office, 1863), Articles of War, Article 9.

months.<sup>38</sup> Although Reeves's actions are emblematic of the drunken ruffian soldier, the court's ruling treated him more like a wayward member of the home community and it sought a means of correcting his behavior that while still painful and serious was preferable to death. If anything the testimony of the officers and the actions of the court looked to mentor Reeves and modify his future behavior, not unleash punishment for its own sake or the example of comrades.

Officers exercised similar prudence in the German regiments. They came to an accused's defense if they could offer declarations of past good behavior and temperate habits. In the 54<sup>th</sup> New York, Corporal Netz landed in the guard house "totally intoxicated," but continued to argue with Sergeant Zimmermann. Told to pipe down by Lieutenant Vogel (officer of the day but from a different company), Netz derided him as a "son of a bitch" and a "scoundrel." During the trial Lieutenant Luckhardt insisted that, "I know Corporal Netz well....He is a very good soldier and has behaved good before. He is not in the habit to be intoxicated."<sup>39</sup>

The guilty verdict Netz received came with strings attached. He was busted to private, ordered to do thirty days of hard labor, and lost a month's pay. The court also remanded four months' wages to his wife. In African American regiments, soldiers worried openly for their families' survival absent their wages—sacrificed as they were in the protest against unequal pay—and often found their officers hesitant to come to their

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<sup>38</sup> Verdict and sentence, Reeves general court-martial.

<sup>39</sup> Charges and specifications, general court-martial of Corporal Netz, 54<sup>th</sup> New York, 28 December 1861, II655, RG 153 Records of the Judge Advocate, NA, Washington, D.C. The first name of Netz does not appear in the court-martial papers.

aid. In contrast locally based Anglo regiments or ethnic units like the 54<sup>th</sup> New York had organic connections to their home communities, especially early in the war. Even after years of service, many immigrant soldiers still remained members of their ethnic communities separated only by space, writing home from the field asking loved ones to remember them to, “the Feldmanns, Bohlens, Althaus, Muellers, Schuttes, etc.” at home.<sup>40</sup>

The officers considering Netz’s case made sure his breach of military law did not punish his wife and family. Ties of kinship, neighborhood, or religion probably helped influence the sentence. (Sergeant Zimmerman, on the other hand, had no witness speak on his behalf; his sentence was identical to Netz’s but with no acknowledgement of his family.) Communal spirit and solidarity kept the hearths that had released their sons and fathers for service to the regiment in officers’ minds even when dispensing sentences.

Small episodes of “drunken dissent” such as these can shed light on the lingering effects of battle, ethnic cohesion between the home and military communities, and the effects of military discipline on the mentalities of individuals and the psychologies of entire units. Alcohol surely acted as an escape mechanism, but it also gave power to soldiers who normally were too constrained by fears of nativist backlash or desires to be faithful citizens. Intoxication, in the face of officers and policies that soldiers believed threatened them or heedlessly compromised their citizen privileges, could give soldiers courage to address their just demands and preserve their soldier rights of membership and procedure.

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<sup>40</sup> Charles Herzog to Hildegard Herzog, 14 April 1865, Herzog Letters, Civil War Miscellaneous Collection (hereafter CWMC), USAMHI, Carlisle, PA.

But “drunken dissent” also reveals how important the ethnic ties between officers and men were to the functioning of Civil War regiments. In the cases above officers who recognized the exculpatory role of intoxication in a soldier’s crimes because they too lived in the same culture of conviviality kept the peace. The law was enforced and procedures observed but when possible courts sought the least painful and shameful sentence. In the Scottish 79<sup>th</sup> New York, intoxicated soldiers escalated to mutiny in part because they doubted the intentions of the Army to respect their terms of service and they believed that their rights to self-government through election and selection had been trampled when the Army forced Colonel Stevens upon them. Turning to the mutinies in the multiethnic 39<sup>th</sup> New York, its officers could not compensate for the regiment’s lack of an ethnic associational structure, either through keen consideration of their soldiers’ rights or through inspiring leadership. In light of the examples of ethnic officers’ subtle reactions to drunken dissent, the seeming ignorance of the commanders in the Garibaldi Guard to the demands of self-government made the mutinies possible.

***The Multiple Mutinies of the Multiethnic Garibaldi Guard and the Absence of Ethnic Associationalism***

Another 1861 mutiny among a truly ethnically diverse regiment had more genuine roots in ethnic tensions. The first of New York’s three-year regiments, the 39<sup>th</sup> New York contained more than seven different nationalities. Spurred initially by Gotham’s Italian, Spanish, and Swiss communities’ unsuccessful attempts to form their own regiments, these ethnic companies were later brought together with companies of German, Hungarian, and French volunteers. Historian Catherine Catalfamo’s analysis of the regiment’s descriptive books makes clear that Germans clearly predominated in raw

numbers, and along with Magyars. Thus, when the Guard mustered into state service on 17 May 1861, there were four German companies, two Hungarian, and one each French, Italian, Spanish, and Swiss. At the same time, even within each company there were significant minorities of certain populations, chief among them being the Irish.<sup>41</sup>

A Hungarian soldier-of-fortune, Frederic George D'Utassy, commanded them. His real surname was Strasser. Prior to immigrating to America, he had either been a rider in the Franconi Circus, a professor of romance languages, or possibly both.<sup>42</sup> Lacking a competent leader to tamp down the ethnic rivalry that threatened the unit's cohesion, the Guard also suffered from D'Utassy's warped internationalist vision. Rather than bearing a United States flag and an Italian flag in honor of their namesake, he also arranged for the carrying of Hungarian colors and this merely added to ethnic jealousy. Aligning each company on paper with a nationality turned the ethnic groups' loyalty away from the regiment to their own status within it. This in turn fractured companies when large enough cohorts of officers and men found themselves as ethnic outsiders serving among comrades of a wholly different nationality.

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<sup>41</sup> Catherine Catalfamo, "The Thorny Rose: The Americanization of an Urban, Immigrant, Working Class Regiment in the Civil War. A Social History of the Garibaldi Guard, 1861–1864," (Ph.D. dissertation, University of Texas at Austin, 1989), 82-84, 90-91, is a valuable social and cultural study by a scholar of the internal dynamics of the 39th New York. Two other studies, Michael Bacarella, *Lincoln's Foreign Legion: The 39th New York Infantry, The Garibaldi Guard* (Shippensburg, PA: White Mane Press, 1996) and John Pellicano, *Conquer or Die: The 39th New York Volunteer Infantry: Garibaldi Guard, A History* (Flushing, NY: Pellicano Publishing, 1996), offer additional insights though not with Catalfamo's same eye for linking events within the regiment to the larger economic, social, and political forces of the day.

<sup>42</sup> Lonn, *Foreigners*, 140-41; Burton, *Melting Pot Soldiers*, 170; Öfele, *True Sons of the Republic*, 54-55.



The regiment's polyglot makeup plagued any attempt to form a cohesive unit identity.<sup>43</sup> One possible source of unity could have been the transatlantic republican ideology many of its members carried with them from Europe. For example, Lieutenant Colonel Alessandro Repetti, a Genoese revolutionary who had participated in the abortive Roman Republic of 1849 and emigrated to America in 1853. Such an idea was at least alluded to in the honor paid to the great Italian republican and revolutionary Giuseppe Garibaldi with the regimental moniker.<sup>44</sup> And it appears to have been a feature of the regiment's earliest recruiting. A poster screamed in their native tongues, "Italian Patriots! Defenders of Hungary! Friends of Liberty [in French]! German Freedom Fighters!" all beneath a full color Stars and Stripes. Below it in English came the revolutionary appeal: "Patriots of all nations! Arouse! Arouse! Arouse!"<sup>45</sup>

Unfortunately, the dissolute and irresponsible leadership of D'Utassy made basing the regiment's identity upon the republican and romantic nationalist creeds of 1848 nearly impossible. He abrogated his military responsibilities to Repetti, looked for any opportunity to enrich himself at the regiment's expense, and had a debilitating habit of womanizing. All of these are means of accounting for why the *regiment's* lack of ethnic associationalism led to chronic indiscipline and several mutinies.<sup>46</sup>

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<sup>43</sup> Burton, *Melting Pot Soldiers*, 174; Öfele, *True Sons of the Republic*, 55.

<sup>44</sup> Frank W. Alduino and David J. Coles, "'Ye Come From Many a Far Off Clime; and Speak in Many a Tongue': the Garibaldi Guard and Italian-American Service in the Civil War," *Italian Americana*, 22, no. 1 (Spring 2004), 47–49, 51[47–63].

<sup>45</sup> "Garibaldi Guard," poster, PR-055-3-150, Civil War Posters Collection, New-York Historical Society, New York, NY (hereafter NYHS). The salutation read: "Patrioti Italiani! Honvedek! Amis de la Liberte! Deutsche Freiheits Kämpfer!"

<sup>46</sup> Alduino and Coles, "'Ye Come From Many a Far Off Clime,'" 53.

This is not to say, however, that most of its rank and file would have been veterans of the revolutions that made up the Guard's mythos. Nearly half were under the age of twenty-five. The largest number of volunteers had been artisans in private life followed by another significant number self-identifying at muster-in as laborers.<sup>47</sup> Like the Scottish Americans of the 79<sup>th</sup> New York, these immigrant soldiers insisted on electing their own officers. The predominant ethnic groups of each company demanded they supply the officer candidates for election and this often led to friction about procedures of self-government. Such complaints were not unique to the Guard of course. The colonel of the German American 9<sup>th</sup> Ohio ordered completely new elections when complaints about the legitimacy of results threatened mutiny.<sup>48</sup> In the 39<sup>th</sup> New York, complaints about officer elections heightened ethnic pride and loyalty to destabilizing levels.<sup>49</sup> Petitions from officers and soldiers inundated Colonel D'Utassy during the regiment's formative months. For instance, José de Barcellos Boom wrote the colonel to demand "the nominal title and honors" of the commission he first secured then lost. He had been elected a first lieutenant in one of the regiment's Italian companies. When they were consolidated for lack of recruits, D'Utassy appointed him captain of the Spanish Company, but the soldiers refused "having preferred to have a leader of their own nationality" in Captain José Torrens. D'Utassy followed the sentiment of the soldiers

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<sup>47</sup> Catalfamo, "The Thorny Rose," 91–95.

<sup>48</sup> Lieutenant Friedrich Bertsch to Dear Editor, Cincinnati *Volksfreund*, 11 June 1861, in Joseph R. Reinhart, trans. and ed., *A German Hurrah!: Civil War Letters of Friedrich Bertsch and Wilhelm Stangel, 9<sup>th</sup> Ohio Infantry* (Kent, OH: Kent State University Press, 2010), 25. So important was the operation of self-government within the regiment that Bertsch reported, "Because of the strain of the elections, drills are suspended until evening."

<sup>49</sup> Catalfamo, "The Thorny Rose," 90, 93.

and ordered Boom home because he had become an officer without a command.<sup>50</sup> The colonel appeased other officers' claims for ranks of prominence in the regiment with honorary titles and commissions.<sup>51</sup>

The regiment's rank and file also found numerous aspects of military life that loomed as violations of their service terms. Absent the organic associational framework so endemic to most of the Union's ethnic regiments, their soldier rights faced even greater exposure to either casual trampling or premeditated violations. One of the most visceral rights was that of timely and sufficient pay from the Army for their time in uniform and physical separation from their dependents. This right of membership as it pertained to ethnic soldiers is significant enough to merit developing some context for understanding its place in his military experience.

While equal pay was arguably the preeminent matter of soldier rights for African Americans, all Union soldiers knew the difficulties caused by late pay. And ethnic soldiers, because of their predominant backgrounds in the urban artisan and laboring classes, felt the resultant pressures keenly. When soldiers had sufficient funds they did as the Germans in the 9<sup>th</sup> Ohio who remitted tens of thousands of dollars to loved ones in Cincinnati to purchase food, pay overdue rents, and settle heating and cooking fuel bills.<sup>52</sup>

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<sup>50</sup> Petition to D'Ustassy, 20 June 1861, Frederick G. D'Ustassy Papers, NYHS.

<sup>51</sup> D'Ustassy to Major L. W. Tinelli, 10 June 1861, awarding him an honorary lieutenant colonelcy, Frederick G. D'Ustassy Papers, NYHS.

<sup>52</sup> Friedrich Bertsch, 1 May 1862 to the Cincinnati *Volksfreund*, 15 May 1862 in Reinhart, trans. and ed., *A German Hurrah!*, 250-51. In May 1862 these men accepted the paymaster's promise that he would distribute their additional two months of back pay as soon as he could return with the necessary currency.

Union soldiers of all kinds had to give sometimes lengthy explanations for why they could send home nothing at all or only a pittance, but ethnic soldiers who came more often from the working classes, were particularly hard hit. Lieutenant James Turner in the Irish 88<sup>th</sup> New York was already complaining in late 1861 of not receiving his back pay from his earlier ninety-day New Jersey service. He would be unable to send home any pay by early January 1862 so the soldier-correspondent for New York's *Irish-American* recommended his father look for a job with a printer he knew to make ends meet.<sup>53</sup> August Schoch, a German American soldier in the 45<sup>th</sup> New York, explained that he had only a little money left to send home from a recent pay day because he had to lend some to his tent mate, "a man from Harzburg," who was a recent addition to the regiment. The paymaster explained the man would have to wait until the next payday. Schoch's charity combined with the expenses of laundering and writing paper left him with one dollar to send home.<sup>54</sup>

Service in the Army was a major economic sacrifice because an enlisted soldier's pay did not approach what even laborers working at fifty cents or one dollar a day could provide at home. Schoch was a 36-year old German immigrant from Baden. For urban artisans and skilled laborers like him, a shoemaker in private life with four dependents,

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<sup>53</sup> James B. Turner to My Dear Parents & Sisters, 27 December 1861, Alexandria, Virginia, James B. Turner Papers, SC 12613, Manuscripts and Special Collections, NYSL. On the 88<sup>th</sup> New York's composition, see Lonn, *Foreigners*, 120, who notes that only a few of its Irish rank and file were citizens and perhaps a third were veterans of British Army service.

<sup>54</sup> August Schoch to "Dear wife and children," 26 January 1862, n.p., 45<sup>th</sup> New York, Leigh Collection, Book 2: 60, USAMHI, Carlisle, PA, German with English translation.

the sacrifice was even greater.<sup>55</sup> By way of comparison, a shoemaker in Lynn, Massachusetts in 1860 could earn \$260 per year,<sup>56</sup> but a corporal's pay in 1863 only amounted to \$156.<sup>57</sup> Tragically, the pressures of wartime only increased for Schoch's family when they received word that he was killed on the first day of Gettysburg. Military service exposed these families to the male head's death or disfigurement and deepened their economic marginalization.

Military pay, when it did arrive and could be sent home, failed to arrest the economic squeeze most laboring families felt during the war. Schoch's pay in 1863 could not have secured his family of five, subsisting on \$600 per year, ten years earlier. In the urban areas of the North, wages did not keep pace with prices. In New York City by 1863 prices for necessities had increased 60-100 percent in two years while wages had grown a mere 25 percent. Immigration continued, expanding the labor market and holding wages down.<sup>58</sup>

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<sup>55</sup> August Schoach [sic], Ward 17, District 8, New York, NY, Microfilm Publication M653 1860 United States Federal Census, Roll 809, Page 905, Image 470; Private August Schoch, CMSR, states his age as 36.

<sup>56</sup> Alan Dawley, *Class and Community: The Industrial Revolution in Lynn*, (Cambridge, Harvard University Press, 2000), 156-59. Women doing the same work might earn \$170. Female seamstresses in New York City actually had wage cuts by 1864, Philip Shaw Paludan, *A People's Contest: The Union and the Civil War, 1861-1865*. 2nd ed. (Lawrence: University Press of Kansas, 1996), 183.

<sup>57</sup> Dawley, *Class and Community*, 156-59; occupational figures for the regiment are from a statistical sampling of the regiment's descriptive books, RG 94, National Archives. Agricultural families lived with a lower amount of average annual profit, around \$150, but a lingering tradition of subsistence helped compensate. Paludan, *A People's Contest*, 156, reports that wages for farm laborers grew prodigiously, in Ohio for example, from \$120 to \$200 over the course of the war.

<sup>58</sup> Emerson David Fite, *Social and Industrial Conditions in the North during the Civil War* (New Haven, CT: Yale University Press, 1910), 184; Paludan, *A People's Contest*, 181-83; Matthew J. Gallman, *The North Fights the Civil War: The Home Front* (Chicago: Ivan R. Dee, 1994), 104, 193; John Lauritz Larson, *The Market Revolution in America: Liberty, Ambition, and the Eclipse of the Common Good* (New York: Cambridge University Press, 2009), 118-19.

The effects of these economic realities shows themselves in the dissent of Corporal Jacob Staudinger of the 74<sup>th</sup> Pennsylvania who urged his comrades to demand their full pay from the U.S. paymaster on the night of 24 January 1863. The paymaster explained that he was only authorized to pay the men for six months: 1 May to 31 October 1862. Those had been months with intense combat—Cross Keys and Second Bull Run—and stultifying garrison duty around the capital. All done without pay.<sup>59</sup> Recruited in 1861, Staudinger and his regiment were German Americans from Pittsburgh and Allegheny County. Many had been members of volunteer militia companies there before the war. Now they were in winter quarters with their brigade around Stafford Courthouse, Virginia, some 60 miles north of Richmond.<sup>60</sup>

Staudinger's wife had written him only days before warning that the family could not survive the winter without all of his pay. He waited with his company in the cold as they filed into the paymaster's temporary office to collect their pay. Men came out with only six months of back pay rather than eight to bring them current through the most recent

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<sup>59</sup> Corporal Jacob Staudinger general court-martial, 74<sup>th</sup> Pennsylvania, 27 January 1863, LL154, RG 153 Records of the Judge Advocate, National Archives, Washington, D.C.; 1880 United States Census, NARA Microfilm T9, Roll 1094, Page 216D, RG 29 Records of the Bureau of the Census, NA, Washington, D.C.; incidents of service in Bates, *History of Pennsylvania Volunteers*, Vol. 2, 893–94, and notes that the 74th's volunteers even in August 1861 were "men of military experience, 893."

<sup>60</sup> Bates, *History of Pennsylvania Volunteers*, Vol. 2, 895–96.

pay period. Disgust grew as they stood shivering.<sup>61</sup> Staundinger finally excoriated the paymaster when he entered to receive his pay envelope: “I will rather die on the spot.... We want our full pay up to December 31st; we are bound to get it; and if you don’t pay us, we will take it with force.” Shouts of support and commotion from the men alerted Colonel Albert von Hartung to a mutiny in the making. Immediately he summoned the guard and Staundinger relented. At his court-martial the revelation of the news from home lessened his culpability. Still, tried by a court composed of only two German officers and found guilty of disobedience of orders (but not mutinous conduct), Staundinger was nevertheless reduced to the ranks and reprimanded.<sup>62</sup>

As Staundinger demonstrated through his dissent, late pay could act like an open wound on regimental morale because it not only afflicted soldiers’ self-worth as their families’ providers, but offended their civic sensibilities about their rights in uniform. Not only was the soldier absent from the hearth, but he had given up wages significantly more than what the government paid him to shoulder a rifle. By putting on the blue uniform the citizen became dependent on the government for pay, clothing, food, and shelter for himself. His family in turn came to depend on the pay he sent home.

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<sup>61</sup> Staundinger court-martial; *Revised United States Army Regulations of 1861, with an Appendix Containing the Changed Laws Affecting Army Regulations and Articles of War to June 25, 1863* (Washington, D.C.: United States War Department, Government Printing Office, 1863), Revised Regulations, Nos. 1338-39. Delay, inefficiency, alleged corruption, and a dose of sloth, made the Paymaster Department reviled throughout the Army. In many cases paymasters arrived late through no fault of their own; delayed because of bad weather, transportation mishaps, or Confederate cavalry, Charles Howard True, “Civil War Incidents” in *War Papers Read before the Commandery of the State of Maine, Military Order of the Loyal Legion of the United States* (Wilmington, NC: Broadfoot, 1992 [1915]), 282-87.

<sup>62</sup> Staundinger court-martial, LL154. He carried more than just the stigma of losing his corporal’s stripes. He also lost the pay that attended that rank. And this must have stung even more once Congress increased pay for all ranks in the spring of 1864. If Staundinger had remained a corporal he could have begun to earn \$18 a month.

The gravity of late pay for ethnic soldiers and their domestic dependents created yet another reason for dissent within the 39<sup>th</sup> New York in July 1861. In this case, a notion of soldiers' rights to timely, dependable pay forged a brief, multiethnic effort at insisting it be honored. Married soldiers from three companies grasped the implications of the new relationship of dependence emerging from even the earliest attempts to mobilize the population to defend the Union. In petitions to Colonel Frederic D'Ustassy they explained that their families looked to the financial assistance promised them by the Union Defense Committee "in the absence of their natural protector." Every Guardsman's wife was to receive three dollars and half a dollar for each of her children. Yet after three months of service no aid had materialized. Now their wives and children faced hardships unforeseen and unforgiving. They demanded he resolve the matter. In a compact statement of soldiers' right to timely pay they wrote as soldiers who "consider it their duty to fight for a noble cause." To the same degree, "their respective states ought not to forget that their first duty is to provide for the support of their families."<sup>63</sup> These immigrant soldiers displayed a keen understanding of the American law of association by linking the failure of a voluntary organ to the authority of the state. Civic associations thrived in America because of their legal charters of incorporation. Because charters equipped associations with certain powers and obligations with legal weight, it by extension empowered the association's members and any citizens who benefitted from its operations, in this case the families of New York's volunteers. The UDC's

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<sup>63</sup> To legitimate their claims, the soldiers listed the names of their wives and children, along with their ages and their ward of residence in New York City, "Petition of the Commissioned, Non-commissioned officers, and Privates of the 10th Company, Garibaldi Guards [39th New York]," Camp Grinnell, Alexandria, Virginia, 9 July 1861, Frederick G. D'Ustassy Papers, NYHS.



failure to disburse aid was nothing short of abrogating its responsibilities to the citizens of New York that had been devolved upon it by the state government. Now the state needed to recognize its duty and compel the UDC to meet its burdens or take over those burdens itself.<sup>64</sup>

Therefore, late pay was no mere bureaucratic blunder. It was a tangible failure by the government to the volunteer who had pledged his life to protect the nation as an arms-bearing citizen. The citizen dependent on the government over which he was sovereign was forced to choose, in this case, between his domestic and civic responsibilities. The absence of a thoroughgoing structure of organizational identity or ethnic associationalism exacerbated these tensions. In a bid to recover the citizen's claim to self-government of his family and of his republic, the volunteer soldier opted for dissent and a challenge of authority.

Ethnic chauvinism was able to be set aside briefly in the matter of pay, but only a month earlier it had contributed to a mutiny over a violation of what might appear to be one of the regiment's most negligible terms of its service: the issuing of muskets to the regiment instead of rifles. On 31 May the companies marched to the Federal armory in Washington. They expected to finally receive their state-of-the-art Nealls breech-loading rifles which they learned had been recently purchased earlier in the month by the UDC. The regiment had been publicized to potential recruits and the wider reading public as an elite organization of skirmishers to be trained as expert marksmen, able to maneuver

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<sup>64</sup> Douglas Bradburn, *The Citizenship Revolution: Politics and the Creation of the American Union, 1774-1804* (Charlottesville: University of Virginia Press, 2009), 217-18; William J. Novak, "The American Law of Association: the Legal-Political Construction of Civil Society," *Studies in American Political Development*, No. 15 (Fall 2001): 178-79.

rapidly in loose order, and armed with rifles. Instead antique muskets had been brought out—completely inadequate for the terms of service as the men understood them.<sup>65</sup>

Protests over the quality of weapons were a not uncommon occurrence and happened in Anglo regiments too. In the 23<sup>rd</sup> Ohio commanded by future president Rutherford B. Hayes, soldiers threw down their old muskets they judged to be inferior in quality and workmanship when issued. Some stomped back through their company streets deeply offended. Hayes staved off a mutiny through a combination of cajoling and patriotic exhortation until the men relented and returned to duty assured that the situation was only temporary.<sup>66</sup> In both these instances soldiers equated muskets with a second-class status. The Anglos in the 23<sup>rd</sup> Ohio looked upon their service as no less valuable than that of any other regiment, therefore neither should the Army. If other volunteer units merited rifles then so did they. Anything less was an affront to citizen values of equality, a contravention of their service terms, and a revocation of contract by their government.

Admittedly the 39<sup>th</sup> New York's "musket mutiny" grew out of the regiment's complicated identity, but these same civic concerns about soldier rights lay at its heart. Traditionally, historians have seen it as evidence of the ethnic tensions within the unit<sup>67</sup> and how the mutiny unfolded does demonstrate conflict among ethnicities. Also, D'Utassy's weak leadership must again be entered into the balance sheet. The regiment's paymaster informed him later in June— after the "musket mutiny"—that 7 of the 10

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<sup>65</sup> "The Garibaldi Guard," New York *Herald*, 10 May 1861.

<sup>66</sup> Foote, *The Gentlemen and the Roughs*, 167.

<sup>67</sup> Burton, *Melting Pot Soldiers*, 172-74, pinpoints the Guard as notable among ethnic regiments for its high degree of internal conflict among the constituent nationalities.

companies had circulated petitions for the resignations of the colonel and of Lieutenant Colonel Repetti. Major George Waring, an Anglo American officer recruited to the regimental staff, insisted that, “In matters of discipline” the colonel “was practically useless.”<sup>68</sup>

But the mutiny also provides evidence that the ethnically homogenous companies offered an informal version of ethnic associationalism, which stiffened the resolve of soldiers to defend their terms of service. Examples from previous mutinies demonstrate how associational culture originated with the individual company in many cases. Therefore, it is no surprise to see the largely homogenous companies of the 39<sup>th</sup> New York find in that identity the basis of a nascent ethnic associationalism.

The Italians who joined the regiment are a useful example of the roles played by print culture and ethnic associationalism in creating volunteer units of Italians. Shortly after the shelling of Fort Sumter, publicist G. F. Secchi de Casali, former diplomat Luigi Tinelli, and erstwhile revolutionary Repetti advertised for recruits in New York’s Italian language newspapers and used the existing *Guardia Nazionale Italiana* military company as a cadre. Additionally, through their prestige and contacts in the Italian American community they convinced a number of former soldiers and revolutionaries to join up as well. In the end, it was their miniscule numbers that determined New York’s Italian denizens would only organize a company rather than an entire regiment.<sup>69</sup>

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<sup>68</sup> George Waring, “The Garibaldi Guard” in *Liber Scriptorum: The First Book of the Authors Club* (New York: The Authors Club, 1893), 590.

<sup>69</sup> Alduino and Coles, ““Ye Come From Many a Far Off Clime”” 47–50.

Ethnic associationalism at the company level within a multiethnic regiment also ensured chaos even as certain groups of soldiers believed their actions were in defense of their soldier rights. The predominant German membership intended to hold out for the promised rifles even as the Spanish and French companies were content to temporarily accept them. Moreover the Germans felt confident in their preponderant physical presence that they could compel the other companies to join their boycott. It worked temporarily. José Torrens, the captain of the Spanish company, blamed non-commissioned officers from the German company for encouraging the Spanish and French companies to refuse the muskets offered. Officers from the French company complained that German soldiers tried to wrangle their muskets from their men, resulting in a brawl.<sup>70</sup> Yet even Torrens, while blaming the Germans for the mutiny to begin with, made sure to remind Colonel D'Utassy that his men stood "ready to receive the arms that may be given to us *until the Government may be able to furnish our regiment with rifles.*"<sup>71</sup> Here then is at least reason to believe that across ethnic lines there existed a common understanding of the Guards' soldier rights even though within their ethnic associations they had settled on different tactics and timing in defending them. No one favored receiving substandard equipment contrary to the regiment's terms of service, but whether that necessitated mutiny was an open question. The mutiny exploded among men who also were late on receiving their pay and whose officers had yet to be officially

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<sup>70</sup> Catalfamo, "The Thorny Rose," 108-09; Burton, *Melting Pot Soldiers*, 171-72.

<sup>71</sup> Captain José Torrens to D'Utassy, 30 May 1861, Assembly Rooms, Barracks, Frederick G. D'Utassy Papers, NYHS.

commissioned—further evidence that soldier rights fueled the mutiny rather than ethnic antagonism.

The men involved in the “musket mutiny” explained their motives in a regimental court-martial. The officers on the court came from the German and Hungarian companies, but none hailed from the Spanish or French companies. Major Waring presided over the court as president. The participants on trial claimed ignorance of some Army regulations, but like African Americans and Anglo soldiers in episodes of dissent, these mutineers of the 39th New York also claimed specific rights as members of their particular regiment, if not company.

Representing the interests of his comrades to the non-commissioned officers in his German company, Hermann Engel urged them to complain to Colonel D’Utassy that they would not march over the Potomac as ordered on account of being issued inferior weapons. Engel disputed the Army’s position that the men had no choice but to accept the smoothbore muskets, despite promises that upon enlistment they would be equipped with modern rifles.

Placing this complaint in the wider context of soldiers’ rights under their terms of service connects it to the same line of thinking that motivated the mutiny of the 20<sup>th</sup> New York. In both mutinies German volunteers considered their consensual obligations severed by arbitrary violations of their soldier rights. Moreover, like so many officers in the cases of drunken dissent above, Engel’s captain, Joseph Wiegand, testified to the man’s patriotic motives for wanting the Guards to only have the best equipment. Wiegand essentially claimed that Engel had lodged his complaint as a form of popular

constitutional instruction to the Army. Within the logic of ethnic association the company's members could claim a privileged position to stipulate the extent to which the Army honored the letter and spirit of their contract.<sup>72</sup>

But by 6 July the officers from across the regiment's ethnic companies united all of these complaints to the colonel in a petition, in fact, following on the pattern of officers vouching for ethnic soldiers' concerns exhibited in the cases of drunken dissent. At last, a sense of membership that could transcend the ethnic jealousies had been fashioned out of revulsion at D'Utassy's dissolute character, his negligence of command, and his cases of outright fraud of regimental funds. It gave scandal to the regiment's officer corps who took it as an occasion to amplify the soldiers' smoldering resentment at the trampling of their rights. The officers demanded D'Utassy produce their commissions within seventy-two hours, as well as their back pay and the promised rifles, or else they would encourage their companies to refuse duty.

In the days that followed more soldiers were moved to mutiny, refusing to let the matter of the regiment's arms rest. Some of the petitioners were the Italians' Captain Cesaer Osnaghi, the Spaniards' Captain José Torrens, and the Frenchmen's Captain Louis Tassilier. All three had enforced the issuing of muskets to their companies at the end of May as a temporary measure. But Captain Franz Takats of a Hungarian company, also a petitioner, had not. Now on 9 July, in the midst of the petition campaign, he led his men to take more drastic measures.<sup>73</sup> Takats assembled his company and marched

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<sup>72</sup> Proceedings of a regimental court-martial, 39th New York, 26 June 1861, Camp Grinnell, Washington, D.C., Frederick G. D'Utassy Papers, NYHS.

<sup>73</sup> Burton, *Melting Pot Soldiers*, 173; Catalfamo, "The Thorny Rose," 116-18.

them in the direction of the capital. Once in the city they encamped on the grounds of the Smithsonian and issued another petition for D'Utassy's resignation and the fulfillment of their enlistment terms. Only after they had been cordoned off by troops sent by the commander of Washington, D.C., Brigadier General Joseph Mansfield, did the mutinous company return to Camp Grinnell under guard. In disgrace, Takats resigned rather than be cashiered.<sup>74</sup> At the same time, his mutiny accomplished many of its goals. Within a few days the regiment received its promised rifles and its first pay.<sup>75</sup> Furthermore, Takats's example emboldened Captain Louis Tassilier of the 10th Company on 10 July to write the colonel a letter even more damning of his leadership than the even-tempered officers' petition. He claimed to speak for most of the earlier petitioners and now demanded D'Utassy's resignation posthaste. Making many of the same complaints as the petition, he added charges that D'Utassy physically abused the soldiers using blows to their faces and violent intimidation with his personal weapons. These affronts to the sanctity of the volunteers' membership in the regiment went hand in hand with Tassilier's complaint that D'Utassy was so free with his condemnations of the American republic that it undermined the regiment's morale.<sup>76</sup>

It was not until the spring of 1863 that the unethical and even criminal actions alleged by D'Utassy's officers resulted in his court-martial. While he managed to evade conviction on some charges of fraud and faulty leadership enough charges stuck that the

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<sup>74</sup> Charles Carleton Coffin, *Four Years of Fighting: A Volume of Personal Observation with the Army and the Navy* (Boston: Ticknor & Fields, 1866), 11-13. Coffin incorrectly states that the entire regiment mutinied.

<sup>75</sup> "A Mutiny in the Garibaldi Guard," *Brooklyn Daily Eagle* (Brooklyn, NY), 9 July 1861.

<sup>76</sup> Catalfamo, "The Thorny Rose," 122-23; Tassilier to D'Utassy, Frederick G. D'Utassy Papers, NYHS.

Army dismissed him from the service and sentenced him to a year of hard labor. The Guard by this point had been reduced through combat and disease to a mere battalion. It fought at Gettysburg and in the Overland Campaign. During these years it was no longer the multiethnic experiment of 1861. Increasingly it took on the complexion of a predominantly Irish and Irish American unit in the ranks and most of its original officers were also gone. In fact, by the end of 1863 ninety percent of its original members had left the 39<sup>th</sup> New York through death, desertion, or injury.<sup>77</sup> Nevertheless, despite its rather depressing denouement the 39<sup>th</sup> New York remains a convenient avenue for considering how ethnic associationalism in a multinational setting could at once advance the cause of soldier rights and self-government yet create circumstances that undermined the bonds of membership between soldiers of different linguistic groups.

### ***Conclusion***

Immigrant/ethnic soldiers intended their service to prove their loyalty to the nation, questioned as it was by nativism and xenophobia prior to the war. Substantial numbers of the ethnic populations of the North—from the Irish and Germans to the Italians and Swedes—were already bona fide citizens of the nation. According to Carl Schurz, it was critical that “the immigrant citizen did not stand behind the native American in its devotion to fight for the Union.”<sup>78</sup> By proving their loyalty while assisting the Union to

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<sup>77</sup> Alduino and Coles, ““Ye Come From Many a Far Off Clime,”” 55–57.

<sup>78</sup> Schurz, quoted in Öfele, *True Sons of the Republic*, 35.



win the war, immigrant and ethnic soldiers staked a claim that naturalized and birthright citizenship were equally valid.<sup>79</sup>

The 20<sup>th</sup> New York mutiny demonstrated how this claim of equal citizenship could manifest itself in a mutiny to defend citizen-soldiers' perceived rights. It provided ethnic soldiers with a moment to apply the principles and tools of self-government. Additional mutinies surveyed in ethnic regiments could erupt from ethnic loyalty, manipulate it, or even undercut it. They were episodes of severe group tension concerning loyalty to community and nation. Yet like individual dissent, the motive force behind mutinies came from ethnic soldiers' conviction that acting in defense of their soldier rights was a fundamental expression of their citizenship and of self-government in their adopted country. The circumstances of Army life—alcohol abuse, breach of contract due to late pay, terrible food, monotony, the terrible excitement of battle, separation from home, and authoritarian officers—shaped when and how individual ethnic soldiers policed the boundaries of self-government. These forms of individual dissent could lead entire commands into mutiny, a form of collective dissent, if volunteers deemed their soldier rights at risk and the bonds of association encouraged corporate action. The mutinies in the 39<sup>th</sup> New York were perhaps the most convoluted demonstration of ethnic associationalism. Its strength at the company level dogged the entire regiment. Officers who respected its dictates and the demands of their companies about soldier rights

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<sup>79</sup> Christian G. Samito, *Becoming American Under Fire: Irish Americans, African Americans, and the Politics of Citizenship during the Civil War Era*. Ithaca, NY: Cornell University Press, 2009, 214-15. See James H. Kettner, *The Development of American Citizenship, 1608-1870* (Chapel Hill: University of North Carolina Press, 1978), for the tangled path of transition from subjectship under the crown to volitional allegiance in a democratic republic.

became sources of factionalism that severely hampered the smooth functioning of the unit. Yet, the various mutinies in the 39<sup>th</sup> New York did serve to check to some degree the irresponsible authority and power of D'Utassy. In that way they functioned exactly as the seedbed of self-government.

A more tantalizing observation is that ethnic associationalism in these examples led ethnic citizens in uniform to treasure their individual and corporate rights as soldiers more than among Anglos. That is, *preserving* their foundational and procedural rights was not only a function of self-government but doing so demonstrated that they could indeed act as citizens. Immigrant and ethnic soldiers earned their membership in the nation by shedding their blood on the battlefield. But in the long view, they also proved through military protest actions their capacity for a thoroughgoing, lived commitment to the nation's democratic culture. This observation in no way obviates the conclusions of scholars who have explained the Civil War as a launching pad for greater German American pluralism or greater Irish American integration.<sup>80</sup> For both, it suggests another component beyond battlefield sacrifice and visible uniformed service that laid to rest the xenophobia that had plagued Germans and Irish before (and during) the war. The point is not that these protest actions were celebrated or publicized at the time as evidence of ethnic soldiers' capacity for self-government. On the contrary, the New York papers

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<sup>80</sup> See, Kathleen Neils Conzen, "German-Americans and the Invention of Ethnicity," in *America and the Germans: An Assessment of a Three-Hundred-Year History*, eds. Frank Trommler and Frank McVeigh (Philadelphia: University of Pennsylvania Press); Christian B. Keller, *Chancellorsville and the Germans: Nativism, Ethnicity, and Civil War Memory* (New York: Fordham University Press, 2007); Samito, *Becoming American*.

excoriated the Garibaldi Guard as disloyal in the weeks after the mutinies.<sup>81</sup> Rather, this conclusion posits that the fact of ethnic military protest is additional evidence for their participation in antebellum public culture and for their adoption of long-established American norms about the form and content of individual and corporate rights.

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<sup>81</sup> "Affairs in Washington," *New York Times*, 14 July 1861; "Garibaldi Guard in Discredit," 22 July 1861, uncredited newspaper clipping, D'Utassy Papers, NYHS.

## CHAPTER IX

### CONCLUSION

This project presents the first scholarly treatment of mutinies in the Union Army during the Civil War. In addition, it has considered forms of individual and corporate protest with political overtones that, while not mutinies, fall within the penumbra of military protest actions. The contemporary military jurist Stephen Vincent Benét defined mutiny as “resistance to lawful military authority.” It could take the form of “extreme insubordination, as individually resisting by force, or collectively rising against or opposing military authority.” More than anything, it was characterized by “a murmuring or muttering against the exercise of authority, tending to create disquiet or dissatisfaction in the Army.”<sup>1</sup>

With a string of microhistories in tow, it is evident why Benét’s definition left so much discretion to the superior officer authorized to proffer charges. In several instances, mutinies in the Union Army were the most public form of volunteers’ popular constitutionalism in defense of their soldier rights. Moreover, those soldier rights defined a line between freedom and servitude. Words from freedman-soldier Price Warfield underscored the extreme nature of such political expression. Mutiny was simply the last

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<sup>1</sup> Stephen Vincent Benét, *A Treatise on Military Law and the Practice of Courts-Martial* (New York: D. Van Nostrand, 1864), 205-07.

straw of men who “intended to fight for The country expecting to be treated as human beings.”<sup>2</sup>

Many black, German, and Anglo mutineers would have agreed with Warfield. All of their protest actions sought to protect a modicum of dignity against the institutional power of the Army. Across the board, soldier rights remained in tension with the Army’s organic law. The times and manners in which soldier rights and military law collided were not identical across ethnic and racial divides, or even from regiment to regiment within an ethnic cohort. Nevertheless, running throughout are the twin threads of membership and self-government.

This project examines selected military protests’ origins, their course, and their effects across the Army’s representative ethnic groups. These “vignettes of confrontation” reinforce the reality that commissioned and non-commissioned officers at the company and regimental levels led only with the consent—to varying degrees—of the nation’s citizen-soldiers. Soldiers from Northern communities carried with them interpretations of associationalism, active sovereignty, and volitional allegiance that convinced of their right to govern the affairs of their small units. Anglo citizens, for instance, ranged across the spectrum of rank believed their rights of selection and election handed them the right to regularly judge the fitness of men in command over them. Yet, the examples of protest actions in the 4<sup>th</sup> Corps d’Afrique and the 49<sup>th</sup> USCI were evidence of the freedmen-soldiers’ presumption that they too were capable of

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<sup>2</sup> Price Warfield, et al., 49<sup>th</sup> USCI to Secretary of War Edwin M. Stanton, 20 February 1865, in Berlin, et al., *Freedom*, Document 187; Thirty-Fifth Article of War, *Revised United States Army Regulations of 1861, with an Appendix Containing the Changed Laws Affecting Army Regulations and Articles of War to June 25, 1863* (Washington, D.C.: Government Printing Office, 1863), 491.

interpreting whether or not commanders acted with justice. And in a climax that would have pleased the Anglo cavalryman Asa Story, the Fort Jackson mutineers were successful in removing their tyrannical commander. Even a handful of these legally supported judgments of commanders as at Fort Jackson and at Camp Nelson by former slaves are further examples of the still under appreciated changes brought about by military Reconstruction and civil war.

Chapters II and III showed that Anglos took associationalism seriously while in uniform and fought to preserve their most expansive community of membership, the nation. Ties to their local communities remained crucial to the varying successes of several military protest actions, especially the almost triumphant outcome in the Anderson Cavalry. When Anglo soldiers mutinied they found an instrument that could harness memberships in their local company or regiment to define and preserve their soldier rights. These actions drew on the associational bonds of self-government that they continued in uniform and of which they could still avail themselves through citizen allies at home. The successes of these military protest actions tied soldiers more intensely to the nation and the larger struggle to preserve the Union. The feedback between a healthy sense of self-government within the Anglo soldiers' regiment or company and greater confidence, not in the necessity of Union, but rather of its prospects for survival, suggest that the Union meant the privileges and benefits that came with a citizen's participation in his local community and membership in his immediately available voluntary societies.

Chapters VII and VIII analyzed the developments of protest actions and mutinies by the Union's adopted citizens. Not unlike the Anglos with whom they crossed paths in antebellum streets and byways, ethnic citizens clung to membership in their neighborhood or district most intimately. European ethnics from Germans and Scots to Irish and Italians had quickly appropriated Northern society's print and associational cultures. They put them to use both protecting and assimilating existing cultural forms in their new society. The New York Turner Association is exemplary in this regard. It transplanted a unique German form of voluntary association to the United States while adopting the conventions and habits of associationalism. It then acted as the conduit for the 20<sup>th</sup> New Yorkers' scrutiny of the Army's action against the regiments. The civilian association rallied other ethnic, civic organizations as well as private citizens to press the national government for redress. For European immigrant soldiers who may have been full-fledged members of their voluntary society, their membership in the nation remained qualified before the war. Mutinies and military protest actions demonstrated to immigrants themselves—if to no one else—that pulling the levers of self-government could produce positive results.

Chapter IV delineated the experience of free African Americans from Northern states in a new light by explaining their military protest actions not only in the context of the black freedom struggle but also as artifacts of associational culture. Northern black soldiers' carried themselves in these mutinies as the apotheosis of Republican culture. Claiming to fight not only for the freedom of their race but to raise the ideals of the nation's founding to their true status. Isolating the soldiering experience of Northern

blacks highlighted their attachment to print culture and its importance to their freedom struggle. It also made clear their repeated invocation of the principle of membership both in the Army and in their state. Put into the context of associationalism, very often their statements could be read as placing the emphasis less on being due the same pay and benefits as *white* soldiers, but rather that those rights belonged to all soldiers—white and black—enlisted by their *state* under a specific call for recruits. This provides a quite surprising interface between associationalism, race, and membership. In this respect it contrasts immigrant soldiers' convictions which seemed to actually put a greater stress on their ethnic identity *put at the service of the nation* as a ticket to the wider society's recognition of them as a loyal population.

Finally, chapters V and VI developed the remarkable transition from slavery to freedom through the mutinies of recently emancipated slaves in uniform. Their struggles for customary rights in places like Louisiana, Mississippi, Kentucky, and South Carolina against the master class while fictive members of the plantation family structured their later military protest actions in the Army. Membership in an institution of laws, albeit not as capacious as civil society, conferred a panoply of promulgated rights. Mutinies drew on the tradition of confrontation over defining capricious rights while in bondage and pointed them toward defending their new soldier rights. The newly freed recognized that Union victory was essential if their legal status was to remain permanent.

At the same time, much was particular to only emancipated slave soldiers. Punishment fell harder on them as a result of their mutinies than on soldiers from the other groups. In fact, unlike the freedmen-soldiers, Anglos like the Andersons routinely



escaped without any sanction by the Army except a few months of stopped pay. The unsanctioned executions in the 2<sup>nd</sup> Rhode Island Cavalry demonstrated how precarious the rights of soldiers could become when the relationships between officers and men were torn from the ordering principles of membership, self-government, and localism. Indeed from this vantage point a failure of associationalism might also account for some abuse and misconduct by officers in the USCT, who like Colonel Robinson were wielding command over alien men and with whom they, as white officers, usually felt deeply estranged.

Furthermore, emancipated African Americans could not avail themselves of the right to alienation because separation from the Army along with the tumult caused by the end of the plantation systems left the former slave nowhere to turn. Likewise the protective and productive assistance of civilian advocates from their home communities were also absent for the same reasons. Therefore, emancipated slave soldiers had to rely on sympathetic officers in the Army hierarchy, the good will of Anglo officials in the War Department, and the outcries of the abolitionist press, both white and Northern black. In this climate, mutiny did not present itself so much as a last resort, but as possibly the only tool to defend their soldier rights.

Nevertheless, despite these differences individual and corporate rights belonged to Anglo, ethnic, and African American volunteers in the Union Army as a result of their soldier status. The initial character of that status depended on the diverse array of rights and membership possessed by the social groups within the political community of the United States from which these volunteers came. Mutinies revealed how soldiers at the

local level of their regiments made the war into a struggle to secure the Union and self-government from erosion. Membership in the Army had expanded self-government to increased numbers of members of the nation and, by extension, revitalized the Republic.

Soldiers in blue did not carry out their highest duty of citizenship—to defend the Republic—in isolation. They did it communally, by committing themselves alongside their fellows to a self-governing, martial organization based on clear, mutually-agreed terms. Lest they accept tyranny, the Army could not be allowed to change the rules unilaterally. Possessed of inalienable rights instilled by a Creator, not government, citizens in uniform had the prerogative to use extralegal measures to restore the government's correct relationship to the people. In defense of their soldier rights they were not limited to the paths of redress offered through the Articles of War any more than were civilians restricted to constitutional procedures alone.<sup>3</sup>

Looking at mutinies and ancillary military protest actions zeroes in on an aspect of what made the Civil War so transformative. Even as it intensified the participation of so many heretofore “outside groups” in the politics of self-government and it expanded the meaning of membership in the nation and access to it, it was the last gasp of a society whose boundaries for membership and self-government relied on citizens' engagement in associationalism, exercise of popular constitutionalism, rootedness in localism, and the creation not reproduction of an authentic democratic print culture. Running throughout these mutinies is the insistence that regimental membership conferred rights

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<sup>3</sup> The religious foundations of American popular constitutionalism are forcefully argued for in T. H. Breen, *American Insurgents, American Patriots: The Revolution of the People* (New York: Hill and Wang, 2010), 241-74.

which military law should not override in the pursuit of order and expediency. These volunteers questioned the degree to which those values were essential to winning the war. Perhaps there is a basis offered here for linking Civil War soldiers' confrontation with the expansive institution of the Army to postbellum Americans' search for order vis-à-vis monopoly capital, urbanization, and most pertinently, the demise of the country's island communities.<sup>4</sup>

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<sup>4</sup> Robert H. Wiebe, *The Search for Order 1877-1920* (New York: Hill and Wang, 1967).

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